

## **Code of Ethics as an Instrument in Improving the Performance of the BUMD Supervisory Board**

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**Abstract:** *Regional Owned Enterprises (from now on referred to as BUMD) is a company in Indonesia. A company that is in the form of a BUMD is one type of company that is a legal entity. Based on Law Number 23 of 2014 concerning the Regional Government, the management of BUMD has not yet been regulated in detail regarding the procedures for managing BUMD. In the management of BUMD, there is the domination of power and authority. BUMD has a dual task of providing public benefits and being in charge of making a profit. Management of BUMD so that it can run by Good Corporate Governance, of course, depends on the appointment of members of the Supervisory Board. The Supervisory Board in BUMD consists of government officials / SKPD and independent supervisors from the general public's selection. The problems faced by almost all BUMDs in Indonesia are the basis for regulating BUMD and the principles of managing BUMDs that have been contaminated with the bureaucratic system; BUMD operations are inefficient, and BUMD has not been optimal in providing public services and the character of BUMD based on the principles of Good Corporate Governance (GCG).*

*Based on the background above, the formulation of the problem in this article is how the characteristics and limitations of the BUMD Supervisory Board (perumda) in realizing optimal BUMD management. The purpose of this research is to find concepts or ideas regarding the character, authority, rights, obligations, and code of ethics for the Board of Trustees that meet GCG standards or measures. This research uses normative research.*

**Keyword :** *BUMD, Supervisory Board, Code Ethics Board*

### **1. Introduction**

One form of business of a Regional Government is the existence of Regional Owned Enterprises (BUMD) which are owned by each Regional Government. The presence of BUMD in a local government is one of the sources of regional revenue (PAD). Based on Government Regulation No. 54 of 2017 concerning BUMD, Article 4 explains that BUMD consists of Regional Public Companies and BUMDs in the form of Regional Public Companies. The two construction forms and types of BUMD require a BUMD management concept or model that is by the characteristics and types

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of BUMD itself, following the existing conditions in each region. In reality, the existence of Regional-Owned Enterprises so far is not like State-Owned Enterprises, where most of their business activities have implemented the principles of good corporate governance or are by the principles of Good Corporate Governance as outlined in the Decree of the Minister of BUMN No. Kep-103 / MBU / 2002 regarding the establishment of an audit committee for BUMN. Whereas BUMD in 2017, there is an arrangement regarding the Audit Committee based on Government Regulation Number 54 of 2017 concerning but still optional or not required.

These efforts can be realized in two ways, first, the establishment of State-Owned Enterprises (from now on called BUMN) by the Central Government; second, the establishment of Local Owned Enterprises (from now on called BUMD) by the Regional Government both at the provincial level and regional level. The purpose of the establishment of BUMN and BUMD is motivated by the same principles, [3] some of which include providing benefits for economic development in general by implementing public benefits and earning profits based on a good corporate governance. (Sirait, 2017). Furthermore, based on Government Regulation Number 54 of 2017, the opportunity is given to appoint an Independent Audit Committee who is placed as a member, while the Regional Head still dominates the chairman element. Certainly creates a dilemma for members of the Independent Audit Committee. Looking at current BUMNs has become one step ahead compared to the business activities carried out by BUMD. Even state companies in the form of companies have stepped into public companies by issuing their shares on the National Exchange.

Suppose you trace how the history of the establishment and the status of BUMD and BUMN, both are under the auspices of a Government, both the Central Government and the Regional Government. The problems faced by several BUMDs are the occurrence of stagnation and the powerlessness of BUMDs to develop. Then causes many business activities under the auspices of BUMD to not grow like a private company in general, even fulfilling the public interest in the area. The next problem is related to the management and development of BUMD. In this case, there are still several studies that do not have a legal umbrella (such as implementing

regulations that do not yet exist that specifically regulate company organs in BUMD) which provide directions and guidelines in managing a business entity owned by the Regional Government, such as BUMN has a legal umbrella Law Number 19 the Year 2003. In 2017, the Ombudsman released the findings of 222 BUMN commissioners who are concurrently civil servants, which is not by ethics and laws and regulations. Furthermore, currently found in the body of BUMD, namely the President Director of Bank Lampung Eria Desomsoni, and the board of directors of Bank Lampung decided to appoint the Regional Secretary (Sekda) of Lampung Province Fahrizal Darminto as the main commissioner. The appointment may create a conflict of interest. BUMD is still facing various problems juridically, economically and in governance so that it is unable to achieve the expected goals. According to the Director-General of Regional Financial Development at the Ministry of Home Affairs, there are four fundamental problems faced by BUMDs in Indonesia, namely the basis for BUMD regulation; the principles of BUMD management are still contaminated with the bureaucratic system (the amount of bureaucratic interference into BUMD); BUMD operations that are generally inefficient; and BUMD has not been optimal in providing public services. Based on the background above, the formulation of the problem in this paper is how the characteristics of the BUMD supervisory board (perumda) in realizing optimal BUMD management. The purpose of this study is to find a concept or idea regarding an image of authority, rights, obligations, a code of conduct for the supervisory board that meets GCG standards or measures.

## **2. Theoretical Framework and Hypothesis Development**

The characteristic of a BUMD is that it has social and commercial factors. Based on its philosophy, the establishment of BUMD must be adjusted to the provisions of Article 331 paragraph (4) of Law No. 23 of 2014 that one of the goals of establishing BUMDs is to create jobs or encourage economic development and to generate revenue for the population. The opinion of Rustin Kamaludin stated that one of the objectives of establishing BUMD by the Regional Government is as a profit centre, meaning that BUMD is an organizational unit within the body of the local government installed to

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generate revenue for the local government that founded it. The BUMD's achievements are measured based on the comparison between the profits generated and the investment value that has been made by local governments as investors.

BUMD must be able to revive the regional economy and make efforts in the business field related to the community's interests at large. BUMD must be able to reduce unemployment and poverty in the region by empowering the wealth of the area. (Zulmawan, 2015). BUMD, as a business entity needs to pay attention to the understanding of Bertens (2000) business activities that business activities have three dimensions, namely economy, ethics, law. The BUMD organ, namely the Supervisory Board as one of the organs in charge of assisting the management of BUMD Perumda is a profession, which demands professionalism as well as providing public benefit services to the community. Profession (Keraf, 1998) Profession is work that done as a living by relying on high skills and expertise and by involving deep personal (moral) commitment. (Agoes et al, 2018) Thus a professional person is a person who is engaged in a full-time job and lives from that job by relying on high skills and skills and has a deep personal commitment to the job.

In its development related to Professional Edika by the Supervisory Board, somebody must adjust to the Principles of Business Ethics. The Principles of Business Ethics are as follows: Principles of Autonomy, Principles of Honesty, Principles of Justice, Principles of Loyalty and Principles of Integrity (Novia, 2017). In exercising its authority, the Supervisory Board is obliged to uphold the principles related to the Principles of Business Ethics, the Principles of Good Corporate Governance and the General Principles of Good Governance. The character of BUMD is also in the realm of public law, which aims to provide services to the community.

### **3. Research Method**

This research method uses empirical normative research methods, divided into two stages of the study. The first stage is a study of studies based on applicable laws and regulations, especially those related to BUMD. Furthermore, in the second stage, an empirical legal study is carried out in the form of application (implementation) to in-concrete traditional events in several BUMDs, to achieve predetermined goals.

(Muhammad, 2004) In this case, the law is defined as conventional science and focuses on the collection of secondary data which is primary, secondary and tertiary standard materials (Soekanto and Mamudji, 2006)

#### **4. Result and Discussion**

##### *The Character of the Supervisory Board in BUMD*

BUMD in the form of Perumda has characteristics to carry out the goals and interests of local governments in providing goods and services that control the lives of many people, which of course based on the potential and characteristics of the area. The provisions in Law No. 23/2014 do not explicitly regulate the management of BUMD, only regulate BUMD organs. The BUMD management paradigm still focuses on power and authority; this is because the control of BUMD included in the category of aspects of state administrators, which, of course, affects the management of BUMD management. In the field of human resources, Perumda BUMD organs expect to carry out professional management. However, in practice, as a result of this BUMD status, the Regional Head and DPRD become dominant in the exercise of their authority and cause the existence of HR and BUMD managers not to be dominated by professionals but comes from the Regional Government bureaucracy.

Furthermore, BUMD, as an organization, carries out a dual-task, namely providing public benefits by providing quality goods and services for the fulfilment of the life of the community (public entities). In this case, on the one hand, BUMD is led to seek profit (business entity). As a business entity, there is urgency in implementing Good Corporate Governance in BUMD. There are a strict separation and prohibition of having a functionally affiliated relationship within the organization with personnel who fill positions such as the Board of Directors, Supervisory Board and Shareholders. Likewise with the Regional Government as policymakers and at the same time business actors, related to Policy and then the implementation of GCG which will eventually be carried out by the government itself through BUMD and the success or failure depends on the Good Will of the respective regional heads. Transparency in

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providing public services by Perumda is a necessity as a manifestation of the fulfilment of Law no. 28 of 1999 concerning State Administration that is Clean and free from Corruption, Collusion and Nepotism.

Regional autonomy has considerable consequences for BUMD, in which local revenue is an obligation for BUMD. For this reason, a robust legal foundation needed that can become a foundation or guideline for BUMD so that it can act as a business institution and at the same time as a form of professional, independent, transparent public service that can provide an optimal public benefit.

### *Limitation of the Authority of the Supervisory Board in BUMD*

The Supervisory Board, carrying out its duties and authorities, is accompanied by an attitude of obeying the prevailing laws and regulations, such obedience is one part of the principle of accountability carried out by the supervisory board. The focus of responsibility has five dimensions, namely the economic, legal, moral, social and spiritual dimensions. In connection with ethical aspects, of course, requires ethics as stated in the code of conduct (in writing). Then the principles of business ethics according to Sonny Keraf (1998), namely the Principles of Autonomy, Honesty, Justice, Mutual Benefit, Moral Integrity, teaches about some ethical behaviour that should make into commitment, action, and carried out with awareness.

In carrying out the duties and powers of the Supervisory Board, it has generally regulated in PP. 54 of 2017 in Article 43 paragraph (1), namely supervising regional public companies, supervising and advising the directors in carrying out local general management. Besides, in carrying out its duties and authorities, the obligations of the Supervisory Board have also been regulated in Government Regulation No. 54 of 2017 Article 43 paragraph (2), namely reporting the results of supervisors to the Regional Head and DPRD, with good faith and responsibility for carrying out duties for the benefit of BUMD.

Taking into account all the arrangements above, it appears that the regulation regarding the accountability system of the supervisory board has not regulated in detail in several laws and regulations. Likewise, the existence of the Supervisory

Board is obliged to be independent in the management of BUMD, and this has not regulated in more detail. Suppose matters relating to the authority and obligations of the Supervisory Board are still not held in fact. In that case, this will undoubtedly lead to BUMD problems in determining the governance and policy direction of the BUMD.

### *Code of Ethics for the Supervisory Board in BUMD*

The role of the code of ethics in a profession is a form of behavior reference for all human resources, in this case, the Perumda BUMD. its interests are recognized and implemented by all human resources. Ethics are values or norms related to good life habits and ways of life, both for oneself and others. (Sukarman, 2020) The concept of ethics as a field of philosophical study, especially moral philosophy. Ethics and science originate from human behavior, which ethically and morally has the same understanding or understanding. These two terms mean the good behavior of a person or group of people as a guideline for the demands of the person's conscience and society to create a sense of humanity, honesty, and justice in the life between individuals and society. Scientists explore ethical values in practical life both between individuals and communities; from these values, ethics becomes a guide for human behavior (etiquette), then deepened it as a science (knowledge), but ethics can also be a rule for a group in a job (profession) or known as the Code Ethic of Conduct. (Siregar, 2015).

Ethic of Conduct in a company, business ethics can shape employees' and leaders' values, norms, and behavior in building good, honest and healthy relationships with customers, colleagues, shareholders, and the community. Business ethics can also be a standard for all employees, including management. (Siregar, 2015). A code of ethics is needed to maintain the supervisory board's professional value in carrying out its duties and responsibilities. Morals, morals, and professional ethics are essential to support the smooth operation of BUMD in terms of policy and implementation. Implementing the Code of Ethics in BUMD can run well, paying attention to the

implementation program package based on studies by Weaver, Trevino, and Cochran (in Brooks, 2003), which the authors describe as follows:

1. Formal Code of Ethics, namely a code of ethics formulated or stipulated formally by the Government or possible to establish an association of supervisory boards grouped according to the business line.
2. Ethics Committee, which is an entity formed as a form of supporting organ for the activities of the Supervisory Board, such as BUMN, which has established through the Regulation of the Minister of State for SOEs No Per -12 / MBU / 2012 concerning the supporting organs of the Board of Commissioners / Supervisory Board of BUMN.
3. Ethics Communication System, namely the socialization of a code of ethics, including being updated or updated according to conditions, ethical developments in society, and being open to suggestions or input to become a forum for good communication between local governments and the community. It will be useful if it is base on a transparent attitude.
4. Ethics Officer, namely by forming an Audit Committee, both internal and external, to help the performance of the Supervisory Board. Neutral opinion forms when addressing problems that arise. The ombudsman is a forum for reporting for people who feel disadvantaged to channel and solutions sought. Furthermore, It can relate to the Code of Ethics used.
5. Ethics Training Program, held regularly, both in Perumda and all employees, is no exception.
6. The process of determining discipline, namely the stipulation of sanctions, to complete the agreement on the implementation of the code of ethics and create a deterrent effect on human resources in Perumda to be equally careful, act carefully, and prioritize morality in carrying out their work.

Ethics is closely related to morality. Paying attention to it is essential for moral decisions to support the right reason, and character demands impartial consideration of each individual's interest.



## The Consep of Code Ethics

Draft Code of Ethics	
No	Topik
1	Competency
2	Public Interest
3	Vision, Mision
4	Attitude behavior : Honesty, Fairness, Integrity, Responsibility
5	Independent
6	Professionality : Duty of Care, Conflict Interest, Confidential
7	Nepotism
8	Objective (equal communication and fairness)
9	Security Program dan Whistleblowing
10	Environmental protection

### 5. Conclusion, Implication and Limitation

#### 5.1. Conclusion

BUMD is an actual container for a Regional Government to provide adequate services to the community and get benefits to meet an area's needs. Then, it makes the character of BUMD into 2 domains, namely the realm of public law and private law. For the sake of realizing good governance for a BUMD, the position of the Supervisory Board has a crucial role. Implementing the Supervisory Board's duties and obligations must be based on the responsibilities and authorities as stipulated in several laws and regulations. Supervisory Board can adequately carry out its duties and obligations with maximized its function.

It is necessary to have a Supervisory Board Code of Ethics for BUMD. It must adjust this Supervisory Board Code of Ethics to the implementation of GCG and Good Governance, the Principles of Business Ethics, the Principles of Independence and Independence, and the Principles of Transparency to the public.

#### 5.2. Implication and Limitation

BUMD, carrying out operations, is obliged to pay attention to statutory regulations. Regional Heads will establish regional rules to regulate the authorities, rights, and obligations, especially organs within the BUMD. Then the existence of the Code of Ethics will undoubtedly complement the obedience to the morality of the

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BUMD organ. As a suggestion, the research continues with applying a code of ethics in the PERSERO (BUMD Persero) and the formation of a Draft Law that specifically regulates BUMD.

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