

Legal Certainties Improve Performance of State-owned Enterprise

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Condition and law enactment on anti-corruption especially after the reform in Indonesia have prioritised presumption of corruption rather than the contrary. This is exacerbated by the immense press freedom.

This condition makes the corruption suspect/defendant experience two types humanity degradation, first when named a suspect and when published in the national media (trial by the press). It can be said that almost all suspects or defendants of corruption have been named as corrupters although their legal proceedings have not come into verdict.

"This is obviously not a thing aimed for by the law, because such naming can only be attributed to perpetrators who have been sentenced as guilty by the court," said Hendry Julian Noor, S.H., M.Kn, at Faculty of Law UG on Monday (17/9) in his doctoral promotion.

Hendry Julian said many members of board of directors of state-owned enterprise faced corruption cases because their policy was considered as unlawful. This was caused by multi-interpretation cases of state finances, where law enforcers often mix the unlawful nature in the public law and

private law domains.

Sentencing state-owned enterprise directors (on policy or business decision) has often been seen as inappropriate due to the misunderstanding about state-owned enterprise, state loss, and business decision. In this condition, law enforcers, including police, attorney, anti-corruption commission, and judges, have to be able to understand well the nature and characteristics of state-owned enterprise that is bound by the doctrine of legal entity and other regulations.

"These are all needed in order that investigation of alleged corruption cases involving allegedly state-owned enterprise directors can be done carefully in compliance with procedural theories," said Julian, state administration lecturer of UGM.

On the arrangement disharmony between state-owned enterprise and state treasures, he suggested government and parliament to find a way out to the contradictory and overlapping regulations so as to create legal certainty.

"The end goal is that the state-owned enterprise can give their best performance without the fear of corruption accusation if losses should occur due to a policy or business decision," he said.

"The more advanced a state-owned enterprise is, the bigger dividends for state revenues. Thus, state-owned business practitioners should try their best for that advancement in line with their responsibilities," said Hendry Julian, accompanied by promoter, Dr. Paripurna, S.H., M.Hum., LL.M, and co-promoters, Prof. Dr. Eddy O.S. Hiariej, S.H., M.Hum and Prof. Dr. Marcus Priyo Gunarto, S.H., M.Hum.

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