

Violations of Good Corporate Governance Principles: Analysis of a Case Study

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Keywords: Corporate Governance, Violations, Case Study

Abstract: This study presents a case study on violations of several good corporate governance principles with the aim to become a source of learning for practical as well as academic purposes. The case study shows a lousy practice of business ethics conducted by a big mining company in Indonesia, which brings social and environmental detrimental effect on the local community and environment. The bad impact implies the importance of good corporate governance implementation to support ethical business practices and the sustainability of a company. Apart from the practical implication, this study also has the implication on future research to explore more on the relationship between business ethics and corporate governance in the case study context to enable a deep understanding of the issue.

1 INTRODUCTION

Indonesia is a country rich in natural resources, ranging from gold, coal, silver, to copper. The natural wealth is spread in various regions, from Sabang to Merauke. This natural wealth is one of the things that Indonesia can be proud of to the world. However, these natural resources cannot be renewed, so that if they are not appropriately managed, they will eventually run out. Indonesia's abundant natural wealth has also made many foreign companies interested in cooperating with the Indonesian government. This study focusses on the analysis of a multinational mining company in Indonesia, namely PT DEF.

Multinational companies operating in a country should always follow the rules and regulations. Therefore, there is a need for legislation or regulations that govern the cooperative relations of multinational companies with countries where companies operate to protect the interests of both parties. It is also needed to create an atmosphere of harmony and cooperation that is mutually beneficial. The main legal bases and sources relating to multinational companies in Indonesia are found in two regulations, namely Law Number 40 of 2007 concerning Limited Liability Companies (hereinafter referred to as the Company Law) and Foreign Capital Protection Law No. 1 of 1967 (hereinafter

referred to as UUPMA) with all rules for its implementation.

Multinational companies have properties, characteristics, and activities that cross-national boundaries, so the law of multinational companies other than those in domestic law in each country where the multinational company operates is also influenced by international law. Based on the provisions of the law of multinational corporations regulated by the Code of Conduct on Transnational Corporation (ECOSOC- PBB) and the declaration of new international economic order (UN) which states that legal delegations from the international community to each state have the authority to regulate the activities of transnational companies in the area that has become its jurisdiction, the PMA Law No. 1 of 1967 was made a legal source of multinational companies in Indonesia.

One reason for the vulnerability of companies in Indonesia to economic turmoil is due to the weak implementation of good corporate governance. Before the crisis period, the term corporate governance was rarely discussed or known in Indonesia. But then issues regarding the implementation of corporate governance began to be taken into account and considered essential in order to support the recovery of the economy due to the crisis. Good Corporate Governance (GCG) is a concept that concerns structure company, a division of tasks, division of authority, division of

responsibility for each element of the company's structure or company. Good Corporate Principles Governance is regulated in the General Guidelines for Good Corporate Governance issued by The National Committee on Governance Policy (KNKG) in 2006 consisted of five principles, namely Transparency (Transparency), Accountability (Accountability), Responsibility (Accountability), Independence (Independence), and Fairness (Fairness).

The occurrence of violations of regulations by multinational companies in Indonesia is assumed to be due to several reasons, namely the wrongdoing of the perpetrator, the weakness of the apparatus which includes integrity and professionalism, as well as deficiencies in the regulations. The UUPMA provides administrative sanctions for violations committed by foreign investors who violate the contract. Provisions for other sanctions are found in Law No. 25 of 2007 article 34 concerning Investment related to violations from foreign investors concerned is seen/studied casually, for example foreign investors violate matters that are prohibited in the mining sector, then the investment or will be subject to sanctions based on laws and regulations - invitation related to mining so that the violator can be subject to administrative, criminal and civil sanctions in accordance with the violations committed.

During its operations, PT DEF in running its business several times, violated the provisions of regulations in Indonesia. Some of these violations generally relate to aspects of Good Corporate Governance, business ethics, and corporate social responsibility. Some examples of cases include PT DEF discriminating salaries/wages for workers, recording a series of environmental and human rights violations, violating work contracts that have been agreed with the Indonesian Government, violating the law, avoiding tax obligations, and so on. As a result of the violations committed, Indonesia as the country where PT DEF operates and its people suffer significant losses.

2 LITERATURE REVIEW

2.1 Theory of Good Corporate Governance

In the basic principle of the General Guidelines for Good Corporate Governance issued by KNKG in 2006, Good Corporate Governance (GCG) is needed to encourage the creation of an efficient, transparent

and consistent market with legislation. Therefore, the application of GCG needs to be supported by three interconnected pillars, namely the state and its instruments as regulators, the business world as market players, and the community as users of business products and services. The basic principles that must be implemented by each pillar are:

- a. The state and its instruments create laws and regulations that support a healthy, efficient, and transparent business climate, perform legislation and law enforcement consistently (consistent law).
- b. The business world as a market participant applies GCG as a basic guideline for conducting business.
- c. The community as users of the products and services of the business and the parties affected by the existence of the company, show concern, and conduct social control (social control) objectively and responsibly.

Every company must ensure that the GCG principle is applied to every business and in all levels of the company. GCG principles of transparency, accountability, responsibility, independence, and fairness are needed to achieve the sustainability of the company with regard to their stakeholders.

1. Transparency (Transparency)

To maintain objectivity in conducting business, companies must provide material and relevant information in a way that is easily accessible and understood by stakeholders. The company must take the initiative to disclose not only the problems required by laws and regulations but also important matters for decision making by shareholders, creditors, and other stakeholders.

2. Accountability (Accountability)

Companies must be able to account for their performance transparently and fairly. For this reason, the company must be managed properly, measured, and in accordance with the interests of the company while taking into account the interests of shareholders and other stakeholders. Accountability is a prerequisite needed to achieve sustainable performance.

3. Responsibility (CSR)

Companies must comply with laws and regulations and carry out responsibility for society and the environment so that long-term business continuity can be maintained and recognized as a good corporate citizen.

4. Independence

To facilitate the implementation of the GCG principle, companies must be managed independently

so that each company organ does not dominate each other and cannot be intervened by other parties.

5. Fairness and Equality

In carrying out its activities, companies must always pay attention to the interests of shareholders and other stakeholders based on the principle of fairness and equality.

2.2 Theory of Business Ethics

In the basic principle of the General Guidelines for Good Corporate Governance issued by the KNKG in 2006, to achieve success in the long term, the implementation of GCG needs to be based on high integrity. Therefore, behavioral guidelines are needed that can be a reference for the organ of the company and all employees in applying business values and ethics so that they become part of the corporate culture. The basic principles that must be owned by the company include:

- a. Every company must have company values that describe the company's moral attitude in carrying out its business.
- b. To be able to realize a moral attitude in carrying out its business, the company must have a business ethics formula agreed upon by the organ of the company and all employees. The implementation of sustainable business ethics will shape the corporate culture, which is a manifestation of corporate values.
- c. The values and formulation of the company's business ethics need to be outlined and further elaborated in the behavioral guidelines so that they can be understood and applied.

In the main guideline for implementation, company values are a moral foundation in achieving the company's vision and mission. Therefore, before formulating company values, it is necessary to formulate the company's vision and mission. Although company values are universal, in formulating them, they need to be adjusted with the business sector and the character and geographical location of each company. Universal corporate values include trustworthiness, fairness, and honesty.

Business ethics is a reference for companies in carrying out business activities, including interacting with stakeholders. The continuous application of corporate values and business ethics supports the creation of corporate culture. Every company must have a business ethics formula that is mutually agreed upon and further assessed in the code of conduct.

Furthermore, the behavioral guidelines are the elaboration of company values and business ethics in carrying out the business so that they become a guide

for company organs and all company employees. The Code of Conduct includes guidance on conflicts of interest, giving and receiving gifts and donations, compliance with regulations, the confidentiality of information, and reporting on unethical behavior.

According to Simanjuntak (2005), business ethics concerns the appropriateness of the behavior of all parties directly related to the activities of a company. Furthermore, according to Sukarman (2007), ethical behavior is not just a momentary action but must be a habit. Therefore, the process of fostering an ethical culture in companies is a continuous effort. Meanwhile, according to Reksodiputro (2004), business ethics is based on values that go beyond the rules or norms (regulations).

Keraf (1998) explains that there are five principles of business ethics. First, the principle of autonomy, namely the attitude and ability of humans to make decisions and act on their awareness of what they consider good to do. Second, the principle of honesty. Honesty in doing business is the key to success, including staying in the long term, in a business environment full of intense competition. Third, the principle of justice. The principle of justice requires that everyone in business activities, both external relations and internal relations of the company, be treated according to their respective rights. Justice requires that in business activities, there must be no party whose rights and interests are harmed. The fourth principle, mutual benefit. This principle requires that the business is run in a way that benefits all parties. The fifth principle, moral integrity. This principle is mainly lived out as an internal demand in the business person or company to run a business while maintaining the good name or good name of the company.

2.3 Theory of Corporate Social Responsibility

Corporate social responsibility (CSR) is decision making that is associated with ethical values, fulfills legal rules and decisions, and respects people, society, and the environment (Djogo, 2005). With the increasing role of the private sector through free markets, privatization, and globalization, the broader interactions, and responsibilities of companies, including in terms of CSR.

According to Reksodiputro (2004), the concept of CSR is in line with the concept of Good Corporate Governance (GCG) and the concept of business ethics. According to Wienerberg Reksodiputro (2004), CSR more based on value-based and focused

on external companies. CSR is aimed at broader stakeholders, including consumers, non-governmental organizations (NGOs), suppliers, and communities. Thus, management not only pays attention to the basic aspects of economic standards, but also on aspects of the impact of company activities on the environment, surrounding communities, and society in general.

The company's social responsibility according to Utama (2007) is based on all relationships, not only with the community but also with customers, employees, communities, owners, government, suppliers, even competitors. One form of corporate social responsibility in community development. Companies that put forward the concept of community development emphasize social development and capacity building society. A similar opinion was conveyed by Djogo (2005), who stated that CSR concerns social development issues (social development) and is carried out in the context of partnership and governance. This CSR principle pays attention to the development community, protection and preservation of the environment for environmental sustainability, and help improve the quality of human life.

According to the World Bank Djogo (2005), corporate social responsibility consists of several main components. These components are environmental protection, job security, human rights (HAM), interaction and involvement of the company with the community, business standards, markets, economic development and business entities, health protection, leadership and education, and humanitarian disaster assistance.

Harahap (2007), states that until now, there has been no single understanding of CSR. If the red thread is drawn, CSR is part of the corporate business strategy that is related to business continuity in the long run. The business philosophy developed since the beginning should be that the corporation is an integral part of the surrounding community. Conversely, the community is an integral part of the corporation. For this reason, harmony and harmony is needed between the corporation and the surrounding community so that they are mutually beneficial (symbiotic mutualism).

According to Keraf (1998), corporate social responsibility shows the company's concern for the interests of other parties more broadly than just facing the interests of the company. There are four fields included in the scope of CSR. First, the involvement of companies in social activities that are useful for the benefit of the wider community. Second, economic benefits. Every business actor, including a company,

is morally justified in pursuing profits because he can thus sustain the business and company. Social involvement as a manifestation of the company's responsibility and concern for the progress of the community will create a positive image about the company and make the community more accepting the presence and products of the company. Third, fulfilling the legal rules that apply in a society. Companies must maintain order and social order. Fourth, respect for the rights and interests of stakeholders who have a direct or indirect interest in the company's business activities.

The Millennium Poll Survey on CSR (1999) conducted by Environics International (Toronto), The Conference Board (New York), and the Prince of Wales Business Leaders Forum (London) of 25,000 respondents in 23 countries on six continents. The survey results show that 1) half of the respondents care about the company's social behaviour; 2) two-thirds of respondents stated that 60% of the company's profitability was determined by the application of business ethics, employee practices, environmental impact, and corporate social responsibility (CSR), only 40% was determined by the company's image and brand image; and 3) only one third underlies his opinion on fundamental business factors such as finance, company size, corporate strategy, or management (Hasibuan and Sedyono, 2002).

Another survey conducted in 2000 by Burson Marsteller showed that 42% of respondents believe that the track record of CSR will increase stock prices and 89% say that their decisions as legislators, regulators, journalists, and NGOs in the future will be influenced by CSR issues. Customers, investors, community groups, environmental activists, and trading partners will ask the company for detailed information about their social performance.

At present, the concept of corporate social responsibility (CSR) is part of the guideline for implementing good corporate governance (GCG). The problem of business ethics and business accountability is increasingly gaining public attention, especially in developed countries, which are usually very liberal in regulating companies (Reksodiputro, 2004).

3 COMPANY PROFILE AND RESEARCH METHOD

PT DEF mines, processes and explores ore containing copper, gold, and silver. Operates in highland areas in

Mimika Regency, Papua Province, Indonesia, its markets concentrate containing copper, gold, and silver throughout the world. DEF's mining complex in Grasberg is one of the largest producers of gold and silver in the world and contains the largest copper reserves that can be taken in the world, in addition to the single largest gold reserve in the world. Grasberg is in the heart of a vast mineral area, where continuing exploration activities provide opportunities to continue to add to DEF's long-standing reserves.

PT DEF is one of the largest copper mining companies from mineral seeds which also contain large amounts of gold. The first Contract of Work (KK) with the Government of Indonesia was carried out in April 1967, and exploration activities on Grasberg began in December 1967. Construction on a large scale started in May 1970, while the first export of copper concentrate was carried out in December 1972. In late 1991, the second KK was signed, and PT DEF was granted the right by the Indonesian Government to continue its operations for at least the next 30 years. This means that until 2021 PT DEF still had concession rights in Papua. Copper products originating from the mining complex in Papua as well as copper products from the smelting factory in Gresik, which is 25% owned by PT DEF, are very important materials for the communications, transportation, electronics and other industries that are the mainstay of the world.

This study uses a case study method with data sources from published materials regarding PT DEF. The violations were structured by comparing them with the principles of good corporate governance. The constant comparative method is expected to provide a complete picture of violations to enhance more ethical business conduct in the future. We considered that the use of secondary sources is adequate to study the issue as they can provide the objective point of view compared to interviews or other primary sources.

4 VIOLATIONS OF THE PRINCIPLES OF GOOD CORPORATE GOVERNANCE

4.1 Wage / Salary and Employee Discrimination

Almost all PT DEF workers carried out a strike caused by differences in the salary standard index applied by management to the company's operations in Indonesia and other countries throughout the

world. DEF workers in Indonesia are known to get lower salaries than the counterpart workers in other countries for the same level of office. In 2017, the hourly salary of workers in Indonesia was USD 1.5-USD 3. According to information from the Ministry of Energy and Mineral Resources, the wages obtained by DEF employees are only equivalent to the UMR or Rp. 3.3 million. When compared to the hourly salaries of workers in other countries it reaches USD 15-USD 35. So far, negotiations on this issue have not yet come out, and the management has insisted on rejecting demands from workers. In addition to the minimum salary or wages provided, the proportion of workers in DEF is also uneven among local Papuan workers with foreign workers. Based on information received, there were only 4,000 employees from 12,000 DEF employees. In general, local employees are employed at the lowest level of office, in contrast to foreign workers who tend to fill positions at a higher level.

4.2 Environmental Pollution and Human Rights Violations

According to Wahyuni (2007), although the Indonesian mining sector is considered to be very geologically perspective, the policies taken by the government have not supported the mining industry sector. It has been almost fifty years that the mineral mining industry in Indonesia has failed to prove its role as a pillar of the Indonesian economy, let alone the welfare of the local population where the minerals are mined. The mining sector also failed to demonstrate their responsibility for environmental damage, human rights violations, and the resolution of conflicts with local residents in mining locations.

In carrying out its operations, PT DEF tends to expose its profits economically and ignore the environmental impacts caused. Jatam noted a series of environmental and human rights violations committed by DEF. Widiyanto (2006) stated that PTFI failed to show its responsibility for environmental management and to realize conflict resolution with local residents. The company is accused of poisoning rivers, estuaries and the sea in Mimika Regency with waste containing mercury and cyanide. The five affected rivers, namely Aghawagon, Otomana, Ajkwa, Minajerwi, and Aimoe, were used as a place for deposition of mine waste (tailings). Approximately 1.3 billion tons of tailings and 3.6 tons of new waste are disposed of in the environment. Moreover, DEF disposes of any hazardous liquids which are materials in the metal separation process which of course will be very dangerous if the waste is

discharged directly into nature which is a water animal habitat and also the source of clean water for human needs will be lost. Recorded water content where DEF disposes of concentrated waste by poisons reaches chronic levels and threatens about 75% of freshwater organisms that live in it.

DEF also conducts expansion of dikes in the west and east to the south because the tailings flow is out of control. This waste threatens the new river, namely Tipuka, and causes the breakdown of Lake Wanagon to contaminate hundreds of thousands of hectares of land and sea of Arafura. The local community there continues to speak out, but their complaints and protests have never been heard, let alone involved in negotiations.

The impact that PTFI has on the area surrounding mining is quite alarming. According to Reza (2006), physical environmental damage that occurs in Papua, among others in the form of rivers that become the flow of waste disposal companies have been contaminated with toxic substances, the land around 230 square kilometers damaged, and deforestation in the area around the miners are increasingly expanding. These things certainly violate Government Regulation No. 82 of 2002 concerning environmental pollution. According to the BPK, the total potential environmental losses incurred reached Rp. 185 Trillion until 2017.

Another violation case of DEF mining is when Amungme residents were evacuated from their ancestral lands once mineral deposits were discovered on their land. Fauzia (2006) explained that the demonstration against DEF, which finally broke down and resulted in the death toll was an emotional overflow of the community. Riots and demonstrations did not appear without any trigger factors behind them, namely social inequality and feelings of injustice.

Later, Jatam also found allegations of refusing to pay water taxes land that DEF should have deposited with the Mimika Regency Government. PT DEF refusal was triggered by the uncertainty of the central and regional governments in collecting payment for losses, plus the government which could be easily negotiated by the company.

4.3 Contract of Work (Indenture)

The second Contract of Work (Kontrak Karya) signed in 1991 in the last few times has led to various controversies. The Indonesian House of Representatives considers the KK with PT DEF to be revised because the government has not yet received the maximum benefits from the copper and gold

mining project in Papua. The distribution of royalties between PT DEF and the Indonesian government must be renegotiated. The proposal was made following the findings of the Financial Audit Agency (BPK), which stated that the preparation of KKPTFI could potentially harm the country. The Plenary Session of the Indonesian Muslim Intellectuals Association (ICMI) meeting also recommended the government to look for new cooperation formulations and fulfill a sense of justice for all parties (ICMI, 2006). Basic considerations because the current conditions have changed far from the past. The issue of corporate social responsibility and the balance sheet of natural resources needs to be discussed by the government so that it encourages as much as possible the results of these natural resources to be allocated to the prosperity of the nation and the State.

DEF violates the Contract of Work agreed upon with the Government of Indonesia. The violations of the contract of work that DEF has done are: (1) In February 2017, DEF was declared to have violated the Contract of Work in article 24. Where DEF should be subjected to the obligation to divest shares, the fact is that it was not implemented; (2) In this case PT DEF acts to the government, which is not willing to change the Contract of Work into an IUPK (Special Mining Business License). This happened because it was in accordance with Law No. 4 of 2009 concerning minerals and coal where

The origin of 170 Mining Laws states that mining companies holding a Contract of Work are required to carry out refining and processing of their mines in the country before being exported within five years of the legalization of the Law. This means that PT DEF is given a 5-year term to build a smelter. So, in 2014, PT DEF should have been purifying its mining products in Indonesia so that it could still carry out its export activities. However, DEF ignored this regulation, where PT DEF did not make a smelter as stipulated in the Act. Here PT DEF has clearly violated the legal ethics prevailing in the Indonesian state according to the mandate that every company operating in Indonesia must follow the applicable law in the country of Indonesia; (3) In accordance with government regulation No.1 2017 concerning the implementation of mining business activities the government has kindly given the IUPK to PT DEF so that PT DEF can operate again, but DEF must comply with the applicable IUPK regulations, but in this case DEF instead refused and still wanted the KK to take effect. DEF also threatened the government by bringing the matter to the International Arbitrage Court.

4.4 Violation of Law

According to the BPK, DEF violated the use of a protected forest area of 4,535.93 hectares. DEF has been declared not pocketing the use of pin-hour licenses in 2008-2015. This mining activity violates Law Number 41 of 1999 and Law Number 19 of 2004 concerning Forestry. The state loses non-tax state revenues from the use of forest areas — potential state losses of Rp 270 billion.

The BPK also found the excess of the reclamation guarantee disbursement amounting to the US \$ 1.43 million or Rp. 19.4 billion based on Bank Indonesia's middle exchange rate on May 25, 2016. The BPK assessed that the funds should still be placed in the government. The BPK also found that the counts of the Ministry of Energy and Mineral Resources Directorate General of Mineral and Coal supervisors were inconsistent, and the results of the assessments were inaccurate. There was also a discrepancy in the reclamation report with facts in the field.

According to the BPK, DEF also mines underground without environmental permits. Analysis of DEF's environmental impacts since 1997 did not cover underground mines. Besides that, DEF has not deposited post-mining fund obligations in the 2016 period to the government. The state's potential loss is the US \$ 22.29 million or around Rp. 293 billion.

5 CASE DISCUSSION

Business competition in the past few times can be categorized as a battle of formation and safeguarding of images in the eyes of consumers or the general public. Companies can be superior by establishing a corporate image that is environmentally friendly and has social sensitivity. Another advantage, with a safe and harmonious business situation and conditions with the surrounding residents, makes the company able to run its business properly. The implementation of a business, including mining, will have an impact on the community. The impact received by the community will be determined by the company's ability to manage its business.

There are many parties who believe that the application of corporate governance is still inadequate, especially in providing information to the outside world. Though it is believed that corporate governance has an important role in creating a stable market. Kormen (2007) wrote that the results of the IICD research (The Indonesian Institute for Corporate Directorship) showed that the implementation of

good corporate governance in the company would spur the growth of the company. The implementation of good corporate governance internally will bring companies to become better-performing companies in the future.

Besides being important for corporate sustainability internally, GCG also needs to be implemented to build good relationships with external parties. Every multinational company operating in a country should always follow the rules set by the country itself. There needs to be a law or regulation that regulates the position of multinational companies to protect the interests of both and for the creation of an atmosphere of harmony and mutually beneficial cooperation.

In practice, DEF in running its operations, tends not to reflect the principles of GCG. The problems that occur are based on the incompatibility of salaries and wages of Indonesian workers who, when compared to workers from other countries, have very different levels. DEF workers' salaries are limited to regional minimum wages (UMR). Even though it is said that it is not illegal, the salary provided is far from what is imagined. In addition to the minimum salary or wages provided, workers in the United States (US) mining company also have an unequal proportion between local native Papuan workers and foreign workers. And ironically, local workers are generally employed at the lowest level, unlike foreign workers who are usually placed at the top level.

Besides that, there was a discovery regarding the mismatch of the person with the facts in the field found by the BPK. The calculation of losses for the environmental impact of the operation of the DEF mine by a supervisory team from the Ministry of Energy and Mineral Resources and the Ministry of Environment and Forestry has been inaccurate. Thus, the BPK team reviewed the report and found several irregularities such as the excess of the DEF reclamation guarantee disbursement, actual state losses, and so on. DEF has also done too many violations of contracts. Do not stop at the above problems; there are still many more violations committed by DEF, especially environmental violations that make the Papuan people suffer.

From the explanation above, it can be concluded that DEF has done a lot of negligence and violated the principles of GCG. DEF, which treats local workers unfairly, such as differences in salaries and wages, placement of positions in the company, is one of the violations of the principles of GCG, especially the principle of Justice. In addition, DEF also damaged the Papuan environment and made the Papuan people suffer. DEF also does not carry out its responsibility

to pay taxes to the local government. This can be interpreted that this company also violates the Principle of Responsibility.

Not only stop there, but there are also still violations committed by DEF, which often violate regulations or laws on the grounds of a Contract of Work. DEF is also brave enough to carry out underground mining without environmental permits, does not pay taxes, also lacks transparency with the government until it is found that there are errors in calculating state losses that cause the state to lose. This shows that DEF also violates the principle of accountability and transparency, as indicated by the lack of openness and accuracy of information.

The social and environmental impacts caused during the mining activities that have been going on for 50 years have been large so that there were requests from several parties to close the mining business. This means that the management of PTFI is not good because of the many comments that indicate community dissatisfaction. The root of the problem with community dissatisfaction seems to be because PTFI lacks information disclosure to the public. Due to information that is not open, such distrust arises. As mentioned in the previous section, in the PTFI report on the Elements of Sustainable Development (2006), the data presented did not reveal clearly and transparently the actual business activities of PTFI. The benefits of PTFI have also not been revealed for the Indonesian people in general, and the Papuan people in particular.

6 CONCLUSIONS AND SUGGESTIONS

6.1 Conclusions

Compliance with the principles of Good Corporate Governance (GCG) and attention to business ethics is a must-have in the company because it provides a reference so that it can run the company's operations in accordance with state regulations while maintaining a friendly relationship with the surrounding environment including social and natural. But in reality, PT DEF actually carried out various violations openly.

According to KNKG (2006), in carrying out the principles of Good Corporate e-Governance (GCG), it needs to be supported by three interconnected pillars, namely the state and its instruments as regulators, business as market players, and the public as users of business products and services. In the state

pillar, the firmness of the government is questionable because the government is considered as contributing to legalizing DEF's influence on the Indonesian land of Papua which has seen more damage and it seems as if the government has the ability to revoke PT DEF's operating licenses apathetic. In the pillar of the business world, namely DEF as a market player, DEF is considered to apply still the old paradigm where the company only prioritizes profit as much as possible without considering the condition and its relationship with the internal and external parties of the company. Examples of violations of GCG principles for internal companies are salary discrimination that violates the principle of justice and violates the principle of fairness in business ethics which states that every person in business activities, both in the company's external relations and internal relations, must be treated according to their respective rights whereas examples of violations of GCG principles for external companies are violations of state regulations, environmental destruction, human rights violations, and others, where this is also related to the third pillar, namely the community, where the population is far from the word prosperity which is not comparable to the income or appraisal of PT DEF which is considered fantastic so that residents should not enjoy the results as a form of corporate responsibility and concern for their social environment.

6.2 Suggestions

As explained by the political lecturer at Cenderawasih University, Marinus Yaung, the impact of PT DEF's mining exploitation on humans and nature in Papua has been going on for almost 50 years. Through Government Regulation No. 1 of 2017, the government requires every farmer company to change its status from a Contract of Work to an IUPK if it still wants to export minerals in the form of concentrates. Although DEF McMoran's President and CEO, Richard Adkerson, insisted on following the Contract of Work as stipulated in the 2009 Law on Mineral and Coal Mining, the government must act firmly on established regulations. Dissent between the government and DEF made the company from the United States threaten to sue the Indonesian government through international arbitration if it still obliged to change the status to IUPK. Lawyers for natural resources law, Ahmad Redi, said that if this issue is brought to the arbitration track, the government is in a stronger position because environmental issues are becoming a world concern.

However, the Indonesian Chamber of Commerce and Industry (Kadin) has asked the government and

PT DEF to resolve the problems that are currently happening wisely. Indonesian Chamber of Commerce and Industry Chairman, Rosan P. Roslani, hopes that solving problems between Indonesia and DEF does not end through an Arbitration process. Arbitration is considered to be detrimental to all parties because it will take time and energy. Not only that, the arbitration process, according to Rosan, will also be of enormous use. This is reflected in several cases that Indonesia has faced through arbitration.

After conducting discussions and negotiations between the two parties, in January 2017, ESDM Minister Ignasius Jonan announced that the Indonesian government would provide concessions to export raw minerals with several requirements through PP No. 1 of 2017. There are three requirements that must be fulfilled so that mining companies can export minerals in the form of concentrates. First, the threshold company that has a Contract of Work must change its permit to become a Special Mining Permit (IUPK) if you want to export in the form of mineral concentrates. IUPK is valid for five years and can be extended, a maximum of two times. Second, mining companies that have an IUPK must build a smelter within five years. The government will conduct an evaluation every six months to check the development of the smelter construction. And third, mining companies are also obliged to divest up to 51% gradually within ten years.

Because of that, with the issuance of an agreement between the two parties, the government must firmly maintain the stipulated regulations and oversee DEF's compliance with the regulation. This aims to prevent violations that might occur in the future. And if later there are violations committed by the company, the government is expected to be able to follow up fairly and transparently, given the violations committed are related to the livelihoods of many people such as environmental damage, human rights violations, and so on.

Besides that, DEF also has to be more fair, caring, and responsible for carrying out its business. The balance between the total revenue (for companies) must be taken into account, which has been taken from the land of Papua, with costs to be borne. The costs here include environmental damage and human rights violations that have occurred and their impact on the community. Of course, an audit from another independent party is needed, so that objective input can be obtained to assess. Through a transparent audit, we can find out the benefits of DEF's existence for the country, especially the people in Papua. If it is considered to be too small a benefit compared to the

costs incurred, the government can propose corrections/revisions to the profit-sharing agreement, apart from compensation for environmental and socio-cultural damage caused by DEF.

Minister of State-Owned Enterprises (BUMN) Rini Soemarno expressed her hopes for PT DEF to be managed as well as possible and prioritize good corporate governance (GCG). The company and the government, both central and regional, will be able to increase certainty in the operating environment and the quality and added value of the extractive industry going forward. Thus, it will further increase prosperity for the people of Indonesia and the people of Papua.

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