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Ratio of Legislative State-Owned Infrastructure Financing with Scheme Non-State Budget to Realize National Economic Resilience

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Abstract

This type of research is a qualitative juridical research that aims to reveal the truth in a systematic, methodological, and consistent manner with a focus on examining the application of rules or norms in positive law to serve as a legal umbrella in financing state-owned infrastructure through the Non-State Budget scheme for realizing national economic resilience. Alternative state-owned infrastructure financing with the Non- SERB/SERR scheme is a form of innovation to overcome limited funds. Limited funds from the SERB/ SERR shouldn’t hinder infrastructure development. One alternative source of financing for infrastructure development through the Non SERB - SERR scheme is through Corporate Social Responsibility and Tax Reduction funds with compensation for building infrastructure. This is very necessary in realizing national economic resilience.

Keywords: *Legislative State; Financing; Economic*

Introduction

Infrastructure development is an integral part of national development and the driving wheel of economic growth. Infrastructure development is believed to be the motor of regional development. Infrastructure also has an important role in strengthening the unity and integrity of the nation. The transportation and telecommunications network from Sabang to Merauke and Sangihe Talaud to Rote is one of the main glues of the Unitary State of the Republic of Indonesia and the backbone of the distribution of goods, passengers and services, and is an important aspect in increasing productivity in the production sector. The availability of housing and settlement utilities, such as drinking water and sanitation services in a broad and equitable manner as well as sustainable management of water resources also determines the level of community welfare.(Lucia Rita Indrawati, 2010)

The negative impact of foreign debt is the emergence of an economic crisis that is getting wider and deeper. The government will be burdened with paying the debt so that only a small portion of the State Revenue and Expenditure Budget (SERB) is used for development. Interest installments are increasingly burdensome for the Indonesian economy because Indonesia's foreign debt always increases from year to year. In addition, in the long term, foreign debt can cause various kinds of economic problems for the Indonesian state, one of which can cause the rupiah exchange rate to fall (inflation) and which will inevitably lead to dependence on aid recipients (domestic) on aid providers (foreign). The government is expected to limit the amount of foreign debt, which in the long term can have a negative impact on domestic economic development. This phenomenon illustrates the influence of the magnitude of economic growth on the magnitude of the growth of foreign debt in Indonesia.

Alternative sources of funding for infrastructure development financing can be through Corporate Social Responsibility (CSR) (Phillips et al., 2020) funds of national private companies or other State/Regional State/Regional Revenue and Expenditure Budget Financing Schemes (SERB/SERR). Utilization of these funding sources will provide many benefits rather than through foreign debt/loan schemes which are increasingly swelling and will erode the economic resilience of national security.

Infrastructure financing through CSR funds National private companies with Non SERB/D schemes are only based on needs on the basis of policies from the government for the public interest. For this reason, in the future, it is necessary to provide a clear legal umbrella as the legal basis for financing infrastructure through private company *corporate social responsibility* funds and other non-budgetary financing schemes for state revenues. From the above background, the author makes an article with the title Legis Ratio for State-Owned Infrastructure Financing with Non-State Budget Schemes for Realizing National Economic Resilience.

Research Methods

This type of research is a qualitative juridical research that aims to reveal the truth in a systematic, methodological, and consistent manner with a focus on examining the application of rules or norms in positive law to serve as a legal umbrella in financing state-owned infrastructure through the Non-State Budget scheme for realizing national economic resilience.(Michael et al., 2021)

Discussion

Infrastructure is one that is important to support economic growth and development in a country. Inadequate infrastructure will hinder the progress and competition of the country compared to other countries. The *World Economic Forum* issues a *Global Competitiveness Report* which can be used as a measure of a country's level of competition compared to other countries. The *Global Competitiveness Report* is summarized from indicators that can determine a country's productivity. There are 12 indicators that are included in the calculation, including; institutions, infrastructure, adoption of information technology, macroeconomic stability, health, skills, product market, labor market, financial system, *market size*, business dynamism, and innovation capability. The latest *Global Competitiveness Report* 2019 report, in general, Indonesia was ranked 50 out of 141 countries that were included. Indonesia's infrastructure indicator values are not as good as their general achievements. Indonesia's infrastructure indicators are the second lowest among other indicators. The infrastructure indicator only got a rank of 72. While the first lowest was the innovation capability indicator with a rank of 74. Singapore is the country with the best infrastructure in the world and got the first rank. Malaysia's infrastructure indicator is ranked 38th and Brunei Darussalam 58th, while Thailand is ranked 71st.(Fauziah & Nurwahidin, 2020)

According to Grigg, Infrastructure is a public service including transportation, energy, water, health and others that are important to support economic and social activities. Through this definition, its known that there is a link between the development of economic and social activities and the availability of infrastructure. This is because infrastructure includes a variety of important things.(Chen et al., 2020) Grigg divides infrastructure into 5 (five) sectors, namely;

1. Transportation
2. Communication
3. Energy
4. Water
5. Waste handling (Sucipto et al., 2018)

To accelerate infrastructure development in Indonesia, the government has launched four main pillars of the acceleration program for Indonesia's infrastructure development which was launched in conjunction with the 2005 *infrastructure summit*. The four main pillars include:(Susantono & Berawi, 2012)

1. The first pillar is the reform of laws and regulations.
2. The second pillar is the compilation of a list of projects that will be accelerated, both financed by the SERB and by the Public Private Partnership (PPP) scheme. For PPP projects, a PPP book is prepared which contains information related to projects that will be offered to the private sector.
3. The third pillar is the establishment of a close communication forum between stakeholders.
4. The fourth pillar is capacity building of human resources and institutions.

One of the important components in the development of a good state infrastructure is supported by adequate funding in the planning stage, in the development process, up to the operation and maintenance stage of the infrastructure. Data from the Ministry of Finance of the Republic of Indonesia shows that the ability of the Indonesian government to finance infrastructure development using public funds originating from the state is very limited. Ministry of National Development Planning of The Republic of Indonesia estimates that in order to achieve the infrastructure development targets set out in the 2015-2019 National Medium-Term Development Plan, the funds required will reach Rp. 5,452 Trillion. Total of funds required, the central and regional governments were only able to provide funds of Rp. 1,131 trillion. This means that there is a funding difference of IDR 4,321 trillion, the fulfillment of which can be achieved through alternative funding such as Public Private Partnerships, and with other alternative funding sources in the form of funds from the capital market.

Infrastructure financing in Indonesia is divided into two types according to the source of funding, namely conventional financing and non-conventional financing. Conventional financing is infrastructure financing sourced from the government budget. So far, the government (ministry/institution) has only relied on three commonly used financing schemes, such as spending by ministries/agencies through the SERB or SERR, or a capital injection scheme to SOEs to work on certain investment projects, and the last one is the Government Cooperation Agency scheme. The business that used to be better known as the *Public Private Partnerships* or *Public Private Partnership* scheme. Meanwhile, non-conventional financing (Pambekti, 2020) is infrastructure financing sourced from non-government budgets. Sources of non-government financing budgets can come from business or private entities, communities, non-governmental organizations as well as philanthropic sources. Non-conventional infrastructure financing has been implemented in various countries, to overcome the limitations of infrastructure provision due to lack of financial resources, human resources and other supporting resources. Likewise, in Indonesia, non-conventional infrastructure financing instruments have been implemented with different implementation methods. (Artiningsih et al., 2019)

Increased cooperation between the government and the private sector that is more systematic and sustainable must be developed and optimized, including through CSR schemes. The CSR scheme is an initiative of the private sector which is a form of social responsibility to the community and the environment. CSR is generally carried out unilaterally by the company by providing various benefits directly to the target group. There are times when the implementation of CSR is also carried out within the framework of cooperation with the government. The implementation of CSR also has other benefits, namely helping infrastructure development efforts carried out by the government. The involvement of the public sector in the implementation of CSR is justified through the main concern that the government needs to ensure the presence of proportional practices from companies to support sustainable development goals. The government has an interest in ensuring the realization of the public interest through the creation of social, environmental and economic policies, while companies have an increasingly autonomous and self-aware role in supporting the achievement of the public interest, one of which is through CSR.

As a source of development funds in the area, CSR is a form of innovation in infrastructure financing. This step is outside the conventional pattern which only relies on the APBD and SERB to finance infrastructure. So far, most of the government has relied on the APBD to finance its construction. Even that is only in small-scale proportions because most of it is spent on personnel expenditures. From data from the Central Statistics Agency, it is known that personnel expenditures in all local governments range from 50-60%, with capital expenditures only around 15%. While personnel expenditure is more than 60%, there are 124 local governments with 16 of them above 70%. Therefore, this CSR is an alternative source of infrastructure financing beyond other means, such as public-private partnership PPP *Public-Private Partnership* and issuance of regional debt securities.

Law Number 40 of 2007 concerning Limited Liability Companies There are provisions in CSR which are considered to be ambiguous if we examine further in Article 74 which reads:

(1) Companies that carry out their business activities in the field and/or related to natural resources are required to carry out social and environmental responsibilities.

(2) The Social and Environmental Responsibility as referred to in paragraph (1) is the Company's obligation which is budgeted and calculated as the Company's costs, the implementation of which is carried out with due regard to propriety and fairness.

(3) Companies that do not carry out the obligations as referred to in paragraph (1) are subject to sanctions in accordance with the provisions of laws and regulations.

(4) Further provisions regarding social and environmental responsibility are regulated by a Government Regulation.

One of the sentences in the article above is "mandatory for companies that carry out their business activities in managing or relating to natural resources", here CSR tends to be considered only an obligation for companies engaged in processing or relating to natural resources, while companies outside of the business is not required, even though if we explore almost all companies whose activities are related to natural resources, even if only small. The next problem is regarding the CSR budget which is carried out by paying attention to decency and fairness while the proper and fair value of a company is not the same as other companies, so this fair and proper value limit cannot be used as a concrete reference for companies in implementing CSR programs.

For example, one of the developments carried out in the form of government and private cooperation in the form of a CSR financing scheme is the development in South Kalimantan Province. The government, in this case the Ministry of Public Works and Public Housing, collaborated on the construction of three *overpasses* and one bridge with four coal mining companies crossing the Marabahan national road (Barito Kuala Regency), Margasari (Tapin Regency) in South Kalimantan Province. The total length of the *overpass* and bridge construction of 1,507 meters includes the *overpass* of PT. Talenta Bumi 393.3 meters long, *overpass* PT. Binuang Mitra Bersama is 364.51 meters long, PT. Hasnur Jaya Internasional is 357.12 meters long, and the PT. Antang Mount Meratus is 392.8 meters long. The construction of the *overpass* and bridge using the CSR financing scheme. The *overpass* was built with CSR funds from three coal mining companies, namely PT. Bumi Talent with a value of Rp. 36.4 billion, PT. Binuang Mitra Bersama with a value of Rp. 41.7 billion, PT. Hasnur Jaya Internasional with a value of Rp. 35.4 billion, and the Sungai Puting bridge was built with CSR funds from PT. Antang Gunung Meratus Rp.66.5 Billion.

The impact of this infrastructure development will later strengthen the national economic sector which will eventually lead to national economic resilience. National resilience in the economic field can be seen in various conditions of the nation's economic life that can maintain its economic independence. In economic resilience, the economic aspect is closely related to the fulfillment of consumption needs which include the production, distribution and consumption of goods and services so as to achieve efforts to improve the standard of living of the community individually and in groups because it is supported by the availability of adequate infrastructure. Economic independence also has a good meaning where every human being can create productive work creativity because economic development motivates and encourages active community participation to work. Equitable development and utilization of its results always pay attention to the balance between in the archipelago. (Marlinah, 2017)

Conclusion

Alternative state-owned infrastructure financing with the Non- SERB/SERR scheme is a form of innovation to overcome limited funds. Limited funds from the SERB/ SERR shouldn’t hinder infrastructure development. One alternative source of financing for infrastructure development through the Non SERB - SERR scheme is through *Corporate Social Responsibility* and Tax Reduction funds with compensation for building infrastructure. This is very necessary in realizing national economic resilience.

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