

Equal Opportunities between SOEs and Private Companies

by Ratna Januarita

Board Member of National Committee on Governance of Indonesia

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- Introduction
- Economic Law Approach on The Level of Playing Field for All Business Actors
- The Governance of Neutral Competition
- Government's Political Law

Introduction

- Modern Welfare State
- The Vision of Indonesian Constitution 1945
- Competitive Neutrality

>>> Modern Welfare State

- The purpose of a State is to provide welfare for citizen;
- Intervention of State in any aspect of social life as well as economic activities aims to make available: income distribution of society, social welfare from the cradle to the grave, opportunities for employment, monitoring of wages and salary, business activities in education sector (Beveridge Report);
- The great happiness for the greatest number (the Utilitarianism, J. Bentham).

>>> The Vision of Indonesian Constitution 1945

- To achieve *Justice and Equal Society* (Preamble of the IC 1945);
- The IC 945, Art. 33 (2) stipulates that “*Branches of production which are important for the state as well as influencing the needs of public at large are authorized by state*”;
- The IC 1945, Art. 33 (4): “*The national economic is organized based upon economic democracy with principles: togetherness, efficient by justice, sustainable, environmental, independency, and preserving the balance of development and national economic integration*”;
- The SOE Law (No. 19/2003): “*SOE is one of business actors in the economic national activities based on economic democracy*”; “*SOE plays important role in order to attain welfare to the society*” (justice and equal society);

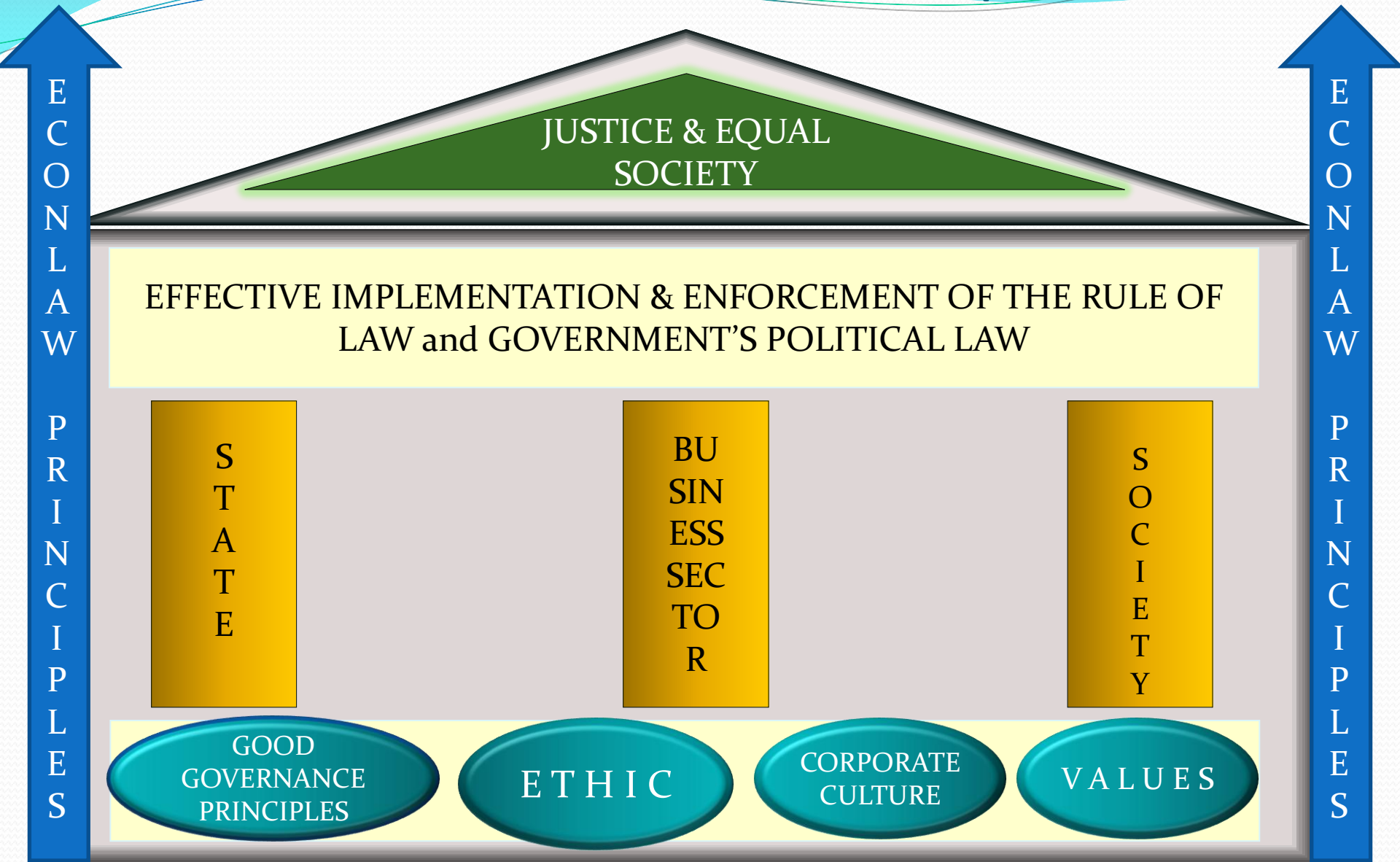
>>> Competitive Neutrality

- The urgency and benefit;
- Double standard > depends on the types of SOE: PERUM and PERSERO
 - PERUM: public service obligation as well as create profit based on corporate management and governance principle;
 - PERSERO: mainly aim to create profit. Based on Law No. 40/2007 on Limited Liability Company, the entity form of Persero is LLC, thus it is similar with other private companies which in the form of LLC as well.
- PERSERO: Some impediments as identified in the ROSC 2009;
- Need a “clear and distinct” governance framework.

Economic Law Approach on the Level of Playing Field for All Business Actors

- Economic Law and its principles: *benefit, kekeluargaan (family atmosphere), non-discrimination, selected discrimination, partnership, transparency, sustainable development;*
- Economic Law Approach: *multi-discipliner, transnational, and futuristic;*
- Benefit by using economic law approach in term of creating level playing field for all business actors;
- Good governance and economic law.

The Governance of Neutral Competition



Government's Political Law

- Shifting paradigm;
- Continuous improvement in the national reformation;
- To the best interest of stakeholders as a whole;
- Eliminating the conflict of interest;
- 'Clear and distinct' governance;
- Strong motivation in the implementation and enforcement: continues campaign and improvement;
- Harmonization between government's policy and competition law >>> law as the commando.