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**DEMOCRATIZATION OF NATURAL OIL AND GAS NATURAL RESOURCES  
MANAGEMENT FOR PEOPLE'S WELFARE**

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**ABSTRACT :** Oil and Gas is one of the natural resources (non-renewable) strategic non-renewable controlled by the state and a vital commodity that dominate the lives of many people and has an important role in the national economy must be managed optimally provide prosperity and welfare for the people. However, the fact is that oil and gas management has not provided maximum benefit for the welfare of the community's life, due to the management of oil and gas resources which only emphasizes the dredging element without accompanied by protection of community rights as well as countermeasures against the negative impacts of oil and gas activities for the surrounding community. The thing that must be done is to restore the people's sovereignty over oil and gas natural resources by rearranging the management of oil and natural gas by giving more portions to State-Owned Enterprises to manage oil and gas natural resources for the welfare of the people.

**Keywords;** Democratization, oil and gas, people's welfare

## **INTRODUCTION**

Indonesia is destined to be one of the countries with abundant natural resources, both on land, sea and air, its potential to be a source of tremendous economic wealth potential. One of the potentials of Indonesia's natural resources which is included in Indonesia's natural resources is Oil and Gas.<sup>1</sup> Oil and Gas is one of the non-renewable strategic non-renewable resources controlled by the state and is a vital commodity that controls the livelihood of the people and has an important role in the national economy so that its management must be able to

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<sup>1</sup> The eight largest IATMI-SMUI oil producing regions in Indonesia are: 1) Riau, Indonesia's largest oil producing region, producing 359,777 bpd of crude oil and 6,050 bpd of condensate per day. Thus, the total daily production reaches 365,827 bpd or one third of the total daily production of oil in Indonesia. Unfortunately, almost all oil blocks are controlled by Chevron; 2) East Kalimantan, with total oil production per day reaching 134,626 bph. The oil blocks there are controlled by Pertamina, Chevron, Total E & P, Kodeco Energy; 3) Java Sea, offshore block stretching from south-eastern Sumatra to areas near West Java resulted in oil production of 65,154 bph and almost part of its production other than Pertamina controlled by British Petroleum; 4) Riau Islands, its total production reaches 61,575 bph; 5) East Java became one of the largest oil producing regions in Indonesia with income per day reaching 52,616 barrels per day. In East Java, in addition to large oil blocks such as Cepu Block and Brantas Block, there are also scattered oil blocks such as Kangean, West Madura, Bawean and Gresik. Tuban itself became one of the largest producers with an estimated 18,845 bpd from 2004-2009 (Pusdatin ESDM). Its production is controlled by, besides Pertamina, there are Hess, Total E & P, Kodeco, Exxon Mobile,; 6) South Sumatra, with total production of oil produced by 41,057 bph and in the hands of Pertamina, Medco, Golden Spike, and Conoco Philips; 7) Jambi, with total oil production of 19,506 bph and its management is controlled by PetroChina, Pearl Oil, and Conoco Philips; And 8) Papua (Irian Jaya), with total production of 14,811 bph and its management is controlled by Pertamina, PetroChina and British Petroleum. Agus Juang Pribadi, <http://www.berdikarionline.com/pasal-33-uud-1945-and-the-utilization-in-oil-bumi-for-rice/>. Retrieved July 15, 2017 at 10:00 pm

maximally provide prosperity and prosperity for the people.<sup>2</sup>

Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution explicitly affirm that the production branches which are important for the state and which affect the livelihood of the people are controlled by the state. Similarly, the earth, water and natural resources contained therein are controlled by the state and used as much as possible for the welfare and prosperity of the people.

In the context of the management of natural resources of oil and gas explicitly mentioned in the consideration of Law Number 22 Year 2001, national development should be directed to the realization of people's welfare by conducting reform in all areas of national and state life based on Pancasila and 1945 Constitution, so as strategic strategic resources Renewal, regulatory changes to oil and gas mining are expected to create an independent, reliable, transparent, competitive, efficient, environmentally conserved petroleum, petroleum and natural gas business activity and foster the development of national potential and role and provide a legal basis for measures Renewal and structuring of oil and gas operations.

The above provision confirms that the people are the main focus or the central point in the utilization of natural resources of oil and gas. But this people's central position is often ignored. It is as if the people have no rights whatsoever to their living space when it is confronted with the excuse of national interest and state ownership. In fact, clearly UUPA 1960 mandates that the relationship of the Indonesian nation with agrarian (earth, water, air, and natural wealth) is eternal. Article 9 of UUPA 1960 states that "Every Indonesian citizen, both male and female have equal opportunity to obtain a right to land and to benefit from the results, both for themselves and for their families." Land in this sense What is on it and what is contained in it.

Basically the provisions of Article 33 paragraph 3 of the 1945 Constitution became the reference of economic democracy which to this day does not happen. According to Revrisond Baswir in his introduction in the book *Menilik Demokrasi* by Gunawan Wiradi emphasized that, economic democracy is basically a philosophy which advocated the dissemination of ownership of the means of production to the whole community members. This is important for the sake of economic equity, not just economic growth concentrated on a few people. Economic democracy does not want economic power to be concentrated on the few owners of political-economic power. Rather it becomes a prosperous society, not people.<sup>3</sup>

## DISCUSSION

Economic democracy presupposes a populist economy that becomes the backbone of the national economy. The democratic economic system is a structure and economic process that seeks to transfer the power to control of the oligarchy of the owners of capital into the hands of all members of society.<sup>4</sup> Thus the people are really positioned as the rightful owners of this State. In connection with this popular principle, Bung Hatta asserted that; "The principle of democracy implies that sovereignty exists in the people. All laws (recht, legislation) must rely on a sense of justice and truth that lives in the hearts of the people, and the rules of livelihood

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<sup>2</sup> Compare with, Ahmad Redi, Dynamics Conception of State Control over Natural Resources, *Journal of the Constitution*, Volume 12, Number 2, June 2015, p. 403

<sup>3</sup> Hayyik Ali Muntaha Mansur, Restoring People's Sovereignty over Natural Resources of Oil and Natural Gas, see <http://mcw-malang.org/arsip/2016/10/reading-the-sovereignty-of-the-resources-in-migas/>. Accessed on. July 18, 2017 Time; 10.30 hrs.

<sup>4</sup> Mubyarto, dkk, *People's Economy*, Lembaga Suluh Nusantara Jakarta; 2014, p. 33

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must be perfect and happy for the people if they are grounded in the sovereignty of the people".<sup>5</sup> However, in fact, the management of oil and natural gas has not given maximum benefit to the welfare of the people, the fact is that most of the people in the oil and gas producing areas still have high poverty rates, the level of community education is still low, and prone to health conditions for the surrounding community Oil and gas mining areas. This shows that the management of oil and gas resources only emphasizes the dredging elements without the protection of the rights of the community and the prevention of the negative impacts of oil and gas activities for the surrounding community.

This paper is intended to describe the problems related to whether the Article 33 of the 1945 Constitution which carries the concept of economic democracy in the utilization of natural resources of oil and gas has been fulfilled for the welfare of the people? Similarly, is the legal policy on natural resource management of oil and natural gas to accommodate the sense of justice in the distribution of natural resource utilization that reflects the sovereignty of the people towards natural resources?

### **Legal Aspect of Oil and Gas Regulation**

Law Number 22 Year 2001 on Oil and Natural Gas enacted in the State Gazette of 2001 Number 136 Supplement to the State Gazette Number 4152 is the fourth phase as well as the last phase to date from the political development of oil and gas law in Indonesia. Basic consideration of the formulation of Law Number 22 Year 2001 is due to Law No. 8 of 1971 on Pertamina is considered no longer appropriate with the development of oil and gas mining business.<sup>6</sup>

Law Number 22 Year 2001 also changed the role of Pertamina from policy makers, regulators and business players or players into players only. The chart below shows the paradigm in Law Number 22 Year 2001. It is also shown by establishing BP. Oil and Gas based on Government Regulation (PP) Number 42 Year 2002. Oil and Gas is also established under Government Regulation No. 67 of 2002. Completing the formation of the two new bodies, Pertamina, based on Government Regulation Number 31 Year 2003 has also been changed to become a Limited Liability Company or a player only. Regarding the main regulatory activities in the oil and gas sector has also been regulated in Government Regulation Number 35 Year 2004 regarding Upstream Activities and Government Regulation Number 36 Year 2004 on Downstream Activities.

Law Number 22 Year 2001 which is expected to provide a new legal basis for the reform and restoration of the oil and gas business by replacing the previous Law, namely Law No. 8 of 1971 on Pertamina, was laden with hidden agenda (hidden agenda). The various provisions on the authority and obligations of the various parties involved in managing the oil and gas sector are formulated in articles that are highly elastic or directed to the government through further regulation, this highly elastic Government Regulation will increase the uncertainty in the management The oil and gas sector and will open up opportunities for discontinuous and ad-hoc government policies.

Based on this, the birth of a law, if investigated from the process of making it, will show how

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<sup>5</sup> RevrisondBaswir (2000), inHayyik Ali Muntaha Mansur, Restoring People's Sovereignty over Natural Resources,... *Op.cit.*, Comparative with, Mas SubagyoEkoPrasetyo, Juridical Application of the Oil and Gas Law in the Relation of Oil and Gas Small Business Activities, 2009., p. 8

<sup>6</sup> Indah Dwi Qurbani, The Political Law of Oil and Gas Management in Indonesia, Arena Hukum Volume 6, Nomor 2, Agustus 2012, p. 79-154

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persistent the struggles made by some groups to keep their interests guaranteed by the law. Usually strong groups of positions in society, many determine the formation of a law.

Law is viewed as the product or output of the political process or the result of the consideration and formulation of public policy, in addition to the law as a product of political considerations, legal policy is defined as a line or policy basis for Determine the law that should apply within the country. In democracies, input into consideration for the determination of the law comes from the aspirations of its people or the people, covering the various interests of their lives.

Based on the above, Law Number 22 of 2001 is considered not sufficient as a legal instrument that can protect the rights of the people as a whole as mandated by Article 33 of the 1945 Constitution. The perspectives of control and exploitation of energy ownership, especially oil and natural gas become increasingly unclear, Article 33 of the 1945 Constitution Indeed has given the restriction of ownership of natural resources by the state for the welfare of the people. However, some of the rules under it just do something different. What is in these rules would actually encourage Indonesia to free trade or liberalization of oil and gas. This can also be proved by the submission of a two-term judicial review to the Constitutional Court against Law Number 22 Year 2001 with a decision in 2003 and 2007.

### **People's Sovereignty in Oil and Gas Governance**

The application of the concept of sovereignty of the people in the state of life in Indonesia historically can not be separated from the influence of the French Revolution that occurred in 1789. Sukarno said that democracy (Soekarno more likely to use the terminology of democracy than the sovereignty of the people) was first developed in the western world at the time of the uprising momentum France.<sup>7</sup> This is in line with the statement of Mohammad Hatta that the popular prevailing until now in western continent more famous by the name of democracy has reached its estuary in 1789.<sup>8</sup> Whereas the French revolution between Sukarno and Hatta can be said to be heavily influenced by the big idea of the sovereignty of the people or democracy that exist in the revolution France is *liberte, fraternite, egalite* but it does not mean the application of people's sovereignty is applied simply without adjusting to the culture and state of Indonesia post colonialism.

The application of the concept of sovereignty of the people in Indonesia under Sukarno and Hatta conception not only diporoskan on sovereignty in the political field, as developed at the time of the French revolution. Political sovereignty only by Sukarno and Hatta did not bring kemashalahatan the people of Indonesia after the colonial era of political sovereignty must also be coupled with economic sovereignty.

The concept of popular sovereignty or democracy that has been offered by Sukarno and Hatta is a form of creative combination of the idea of liberal democracy in crisis with new ideas of collectivism which also are popular in Europe itself, particularly on the influence of the flow of socialism.<sup>9</sup> Furthermore, the idea of two founding fathers are implemented in a tangible form in the formulation of the constitution of Indonesia, namely in the Act of 1945 not only accommodate the provisions regarding the sovereignty of the people politically but only for the

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7 Iman Toto (Ed.), *Bung Karno and Economic Self-Reliance: Political Democracy and Economic Democracy*, Grasindo, Jakarta, 2001, p. 40

8 Mohammad Hatta, *Collection of Book Essays IV*, PenerbitandanBalaiBuku Indonesia, Jakarta, 1954, p. 216

9 Jimly Asshidiqie, *Constitutional Law and Pillars of Democracy*, Sinar Grafika, Jakarta, 2001, p. 126.

provision of the sovereignty of the people as the economy was contained in the articles of the Constitution. Jimly explained that in the 1945 Constitution of the Republic of Indonesia, sovereignty as the ultimate concept of power not only has political but economic and social significance. The articles on popular sovereignty should not be understood only in a political context but should also be understood in an economic context.<sup>10</sup>

The sovereignty of the people in the economic field is manifested in the form of the collective concept of public ownership, this concept is not explicitly described in the formulation of the articles of the 1945 Constitution of the Republic of Indonesia, but the concept can be understood from the interpretation of the Constitutional Court against Article 33 paragraph (2) 3) of the 1945 Constitution of the Republic of Indonesia concerning state control. The subject of state control can be found in the provisions of Article 33 paragraph (2) and (3) of the 1945 Constitution of the Republic of Indonesia. Article 33 paragraph (2) provides that the production branches which are important for the state and which affect the livelihood of the people are controlled by country; Whereas in paragraph (3) it is stated that the earth and water and natural resources contained therein are controlled by the state and utilized as much as possible for the welfare of the people. The Constitutional Court provides an interpretation of the contents of Article 33 paragraphs (2) and (3) on the concept of state control that the meaning of state controls contained in Article 33 paragraphs (2) and (3) should be understood as the conception of public law relating to the principle of sovereignty The people embraced by the 1945 Constitution, both in politics (political democracy) and economy (economic democracy). In the sense of people's sovereignty, it is the people who are recognized as the source, owner, and ultimate authority in the life of the state, in accordance with the doctrine of the people by the people, and for the people. In the sense of supreme authority is also covered the sense of public ownership by the people collectively. That the earth and water and natural resources contained within the jurisdiction of the state are essentially the public property of all the people collectively mandated to the state to control it to the maximum possible use of common prosperity.<sup>11</sup>

From this concept the sovereignty of the people can not be understood only as the supreme authority by the people to govern the Government or in power to determine the way in which it should be governed.<sup>12</sup> It should also be understood that in the 1945 Constitution of the State of the Republic of Indonesia in addition to the recognition of the sovereignty of the people politically there is also the recognition of the sovereignty of the people economically over economic resources, it is conceived that in the sense of supreme authority has also developed public understanding of collective ownership of the earth and Water and natural resources are mandated to the state to master it is used as much as possible prosperity together.

The most fundamental principle in oil and gas governance is related to people's sovereignty. For the people actually have a mandate over the management of the wealth of this Country. But the central position of the people is often overlooked and tends to be ignored. As if the people of *dusah* have no rights or sovereignty over natural resources. In fact, explicitly UUPA 1960 mandates that the relationship of the Indonesian nation with agrarian (earth, water, air, and

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10 Asshidiqie, in Ganesha Patria Wicaksono, *Institutional management of Oil and Gas Post Constitutional Court Ruling*, *Yuridika*: Volume 30 No 1, Januari – April 2015., p. 78

11 Putusan Nomor 36/ PUU-X/ 2012 tentang Permohonan Pengujian Undang-Undang Nomor 22 tahun 2001 tentang Minyak dan Gas Bumi terhadap Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Bagian 3.10 Pendapat Mahkamah Konstitusi

12 Mohammad Hatta, *Op.cit.*, h. 212

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natural wealth) is eternal. It is also mentioned in Article 9 UUPA 1960 that; "Every Indonesian citizen, both men and women have equal opportunity to obtain a right to land and to benefit from the results, both for themselves and for their families." The land in this sense and what lies above and what Contained in it.<sup>13</sup>

The provision of Article 33 Paragraph 3 of the 1945 Constitution states that "Earth and water and natural resources contained therein are controlled by the State and used for the greatest prosperity of the people." Article 33 is a reference for economic democracy which to this day does not happen. According to Revisond Baswir in his introduction in the book *Menilik Demokrasi* by Gunawan Wiradi emphasized that, economic democracy is basically a philosophy which advocated the dissemination of ownership of the means of production to the whole community members. This is important for the sake of economic equity, not just economic growth concentrated on a few people. Economic democracy does not want economic power to be concentrated on the few owners of political-economic power. Rather it becomes a prosperous society, not people.<sup>14</sup>

Economic democracy presupposes a populist economy that becomes the backbone of the national economy. The democratic economic system is a structure and economic process that seeks to transfer the power to control of the oligarchy of the owners of capital into the hands of all members of society. Relating to the popular principle, Muhammad Hatta said, "People's principle implies that sovereignty exists in the people. All laws (recht, legislation) must rely on a sense of justice and truth that lives in the hearts of the people, and the rules of livelihood must be perfect and happy for the people if they are grounded in the sovereignty of the people".

But the fact of the day is that people become alienated in their own country.<sup>15</sup> The branches of the strategic production and control of the livelihood of the people are kept away from the people's hands. Natural wealth is only seen as a commodity of economic value that is then sold to investors and investors both local and foreign. This condition is very contrary to the spirit of economic democracy embodied in the 1945 Constitution. State switching function is only a regulator and guard for the market mechanism to run well and peace.

The principles of populist economy are then complemented by Article 27 paragraph 2 and Article 34, the role of the state in the people's economic system, among others, includes the following five things: (1) developing cooperatives (2) developing state-owned enterprises; (3) ensure the utilization of the earth, water and all the wealth contained thereon for the greatest prosperity of the people; (4) fulfilling the right of every citizen to obtain decent employment and livelihood; (5) maintaining the poor and neglected children. These five roles increasingly have no role. State incarnate companies that fall in the mud of global capitalism system without regard to the justice and welfare of its people. Then the President changed the function of becoming head of marketing.

Relation to oil and gas governance. Pertamina is the property of the State, which also means it belongs to the people. Therefore, Pertamina should also be controlled by the people, not just by

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<sup>13</sup> Hayyik Ali Muntaha Mansur, *Op.cit*

<sup>14</sup> *ibid*

<sup>15</sup> Palupi Annisa Auliani, *Foreigners Dominate Indonesian Oil and Gas*, <http://bisniskeuangan.kompas.com/read/2016/08/24/112344726/asing.kuasai.migas.indonesia> Kompas.com - 24/08/2016, 11:23 WIB.

a handful of people. Enterprises that fit the populist economy is a cooperative. All people are entitled to become members, members are entitled to vote and elected without having to pay attention to the size of capital ownership. Thus, the people are not alienated from the strategic factors of production. The abundance of natural resources is really a blessing for the people around him.<sup>16</sup> It is not a curse that afflicts the people. Forced to obtain the unfair agrarian conditions, damaged environment, and often conflict with the authorities.

The populist principle in oil and gas governance is also reinforced by the decision of the Constitutional Court number 36 / PUU-X / 2012 which says the following;

“Broadly speaking, the Court stated that Article 33 paragraph (2) and (3) of the definition of "controlled by the state" must be interpreted to include the meaning of control by the state in the broad sense sourced and derived from the conception of the sovereignty of the people of Indonesia on the source of wealth" earth, Water and natural resources contained therein "shall include the understanding of public ownership by the people's collectivity of the said sources of wealth. The people collectively are constructed by the 1945 Constitution mandating the state to establish a policy (beleid) and the act of management (bestuurdaad), regelendaad, management (beheersdaad), and supervision (toezichthoudensdaad) for the greatest prosperity of the people. “

Based on the decision of the Court, the government has the discretion to make regulations, policies, maintenance, management, and control over the natural resources of oil and gas. In order for the people not to be marginalized and isolated from their resources, to eat the state-owned companies which must be given mandate to manage the oil and gas can perform cooperation contract (KKS) with BUMD, cooperatives, and small business both in the upstream sector and downstream sector. In addition, natural resources are also not fully put as commodities. If only the process of exploration and exploitation of oil and gas will impact the ecosystem and its environmental damage therein and compromising the viability of the local people, the exploration and exploitation activities should not be continued.

However, what is happening now is that the Government has acted by conducting pro-discrimination against foreign investors, about 85% of oil and gas natural resources are controlled by foreign parties. Economic observer Ikhsan Nurdin Nursi asserts, 95 percent of Indonesia's oil and gas sector is controlled by foreign corporations. PT Chevron from the US became one of the largest oil and gas rulers in Indonesia who took the portion of 44 percent. In addition to Chevron, there are foreign companies that come to enjoy the natural wealth of Indonesia. Among others, Total E & P (10 percent), Conoco Phillips (8 percent), Medco Energy (6 percent), China National Offshore Oil Corporation (5 percent), China National Petroleum Corporation (2 percent), British Petroleum, Vico Indonesia, and Kodeco Energy is one percent each. Meanwhile, Pertamina, state-owned companies only get 16 percent portion.<sup>17</sup>

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16 Nobel laureate economist in 2001, Joseph E. Stiglitz (2006:134) said that natural resources have incarnated curses for developing countries. The existence of natural resources does not bring prosperity and justice to the people, but instead becomes a source of colonialism, conflict, misery, and poverty for their people. He gave two reasons why natural resources were condemned by developing countries. First, almost all developing countries are economically dependent on natural resources. Where one third of export income depends on natural resources. In this regard Stiglitz cites Indonesia as an example. Second, rich countries tend to control natural resources and not distribute them to poor people. It is this paradox that confirms the failure of globalization. Joseph Stiglitz, *Washington Consensus (Deregulation, Liberalization, Privatization): Towards the Abyss of Destruction*. Pent.(Jakarta: INFID, 2002).

17 Baca, 95 Percent of Indonesian Oil and Gas controlled by Foreign Corporations, <https://www.kaskus.co.id/thread/519472e8601243dc70000009/95-persen-migas-indonesia-dikuasai-korporasi-asing/>

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Meanwhile, economic observers from Econit Advisory Group Hendri Saparini rate, there is a paradigm error in energy management in Indonesia. "Energy in Indonesia is made a commercially viable commodity, not a strategic commodity," if the energy sector becomes a commercial commodity, that means everyone can control it. See, the Investment Law and its regulatory children, said the oil and gas sector can be controlled by foreigners 95 percent. While the mining sector 90 percent.

In fact, according to Hendri Saparini, if the portion of so great energy dititipkan to state-owned companies certainly able to take its role as a major pillar of the economic sector. A simple example of inappropriate policy by the government, among others is to provide oil and gas management rights in Cepu Block to ExxonMobil (US company). While Pertamina, Hendri said, it became a stepchild in his own country. Further Kurtubi energy observers argue that the destruction of energy sovereignty comes from the Oil and Gas Law which is financially harmful to the state. "Oil and gas management in the country is the worst in Asia and Oceania".

Whereas the Constitutional Court has submitted a letter to remind the Government that the cancellation of Article 28 paragraph (2) of Law Number 22 Year 2001 was considered contradictory to Article 33 of the 1945 Constitution based on the decision of the Constitutional Court Number 002 / PUU-I / 2003, but the letter Not be heeded by the Government, the Government keeps issuing policies that are always aligned to foreign even always raise the price of fuel. So it can be said that the government ignores the decision of the Constitutional Court as an institution that has the authority to examine the Law against the Constitution under Article 24 C paragraph (1) of the 1945 Constitution.

### **Restoring people's sovereignty**

To strengthen the position of the people as holder of kedaulan over natural resources of oil and natural gas, based on Article 33 of the 1945 Constitution must at least some things that characterize the existence of policies in favor of the interests of society as a process of democratization in the utilization of natural resources of oil and gas, among others; Namely: First, the economy aims to achieve common prosperity of all people, this is explicitly described in the elucidation of Article 33 of the 1945 Constitution. Secondly, the participation of the people in the ownership, production process and enjoy the results. This is in accordance with the formulation contained in Article 33 paragraph (1) and paragraph (4) of the 1945 Constitution.

Third, in accordance with the principle of Article 33 Paragraph (4) of the 1945 Constitution, which is justice, the economy needs to be run by using fair market mechanism based on fair competition and the role and authority of the state for intervention in case of market failure. Fourth, the role of the State should be guaranteed, as mandated by Article 33 Paragraph (1) and Paragraph (3) of the 1945 Constitution, especially in the case of national economic planning, in establishing and enforcing the implementation of the Law, and in implementing service programs and community empowerment, Tax exemption, subsidizing and others.

Fifth, SOEs as one of the cornerstones of economic activity master the important branches of production and which affect the livelihood of many people. This is clearly stated in Article 33 Paragraph (2) of the 1945 Constitution. Sixth, the cooperative as a pillar of the people's economy should be realized in the spirit of togetherness with state-owned and private, and as a people's economic enterprise. Seventh, the national economy should be a manifestation of an

an equal partnership between cooperatives, state-owned enterprises and the private sector. This principle is contained in Article 33 paragraph (1) of the 1945 Constitution.

Therefore, at a more practical level the government should empower Pertamina to be stronger, more efficient and have a dynamic role in the forefront of Indonesia's oil and gas sector. Therefore, a system that determines how Pertamina will contribute to (or manage) the operations group will have a major impact on Pertamina's portfolio or incentives. There are various strategies applied by oil-producing countries to grant access to state-owned oil companies; From participatory guarantees to the most competitive models, existing strategies include:<sup>18</sup>

1. SOEs become the sole players in exploration and production activities; Private companies' participation is prohibited (Saudi Arabia, Mexico before 2013).
2. SOEs become concession holders for all projects and may choose their partners from the private sector (Angola, Malaysia).
3. Participation of SOEs is guaranteed but has little contribution. There are other government agencies that choose partners from the private sector (Brazil, the field in the deep sea Petrobras is guaranteed to be the operator, but the partner is selected by the National Oil Agency).
4. State-owned enterprises must compete, but the auction system provides an advantage for SOEs (Kazakhstan, Mexico post 2013)
5. State-owned enterprises must compete fairly with private companies (Colombia, Norway).

In general, the more competitive a system is, the greater the incentive for SOEs to become dynamic and efficient commercial players, as well as being able to stand on their own. However, the system is not without its weaknesses; Full competition could reduce the availability of BUMN opportunities if the company has not reached a good level of competitiveness when the auction is held.

However, the institutional structures themselves do not provide effective performance guarantees, as well as mechanisms to ensure accountability to the public as well as between government agencies if the above institutions wish to maximize their effectiveness, and reduce the risk of scandal or conflicts of interest. These mechanisms include:

1. Establish an advisory board within a governance system in which the coverage of its work for SOEs and other regulatory agencies. The Council consists of representatives of stakeholders such as civil society, academia, the private sector. The Board will follow the course of the activities of all agencies/institutions that play within the governance system, analyze performance, and communicate with the Government on matters of concern to the stakeholders they represent.
2. Ensure that board members are appointed based on their technical skills and experience. The board also needs to have independence in order to make good technical decisions.
3. Conduct independent audits of all agencies/institutions within the governance system on a regular basis and publish the audit results.

Such Agencies or Agencies shall adhere to the same public reporting standards as, or even higher than, private enterprises. The reporting obligations include the revenue streams that are under their control; Scaled relationships with treasurers and other public bodies; Expenditure and income estimates; Backup and production data; Oil sales under their responsibility; And

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<sup>18</sup> Patrick Heller dan Poppy Ismalina, *Reform of the Oil and Gas Sector Governance System: Considerations for the Jokowi – JK Government*, The Natural Resource Governance Institute, UniversitasGajamada, [www.resourcegovernance.org](http://www.resourcegovernance.org)

other "scaling expenditures," ie, expenditures by companies for activities that fall under the scope of ordinary government agencies, such as infrastructure, electricity procurement, debt payments, or social services.

## CONCLUSION

The concept of democratization in the natural gas and natural resource management policy is to provide an appropriate portion for the involvement of the community to participate in the policy, management, and utilization process of natural oil and gas resources. It is the people who become the central point in the utilization.

But the fact of the day is that the nature of the natural resources of beluk maximally contributes to the welfare of the people. Even in areas that have natural resources of oil and natural gas even though the people are still left behind and do not get the maximum *maanfaan* from the existence of oil and gas mining activities. The people seem to be positioned as a complementary patient in oil and gas mining activities. Oil and gas mining activities that are natural resources in the area are kept from the people's hands. This condition indicates that the Government is more concerned about natural resources of oil and natural gas only serve as economic value commodity which is then sold to investors and investors both local and foreign, so that almost 95% natural resources of oil and gas controlled by foreign investors. This condition is very contrary to the spirit of economic democracy contained in the 1945 Constitution.

The thing that must be done is to return the people's sovereignty over the natural resources of oil and gas is to rearrange the governance of oil and gas by giving more portion to SOEs to manage natural resources of oil and gas by first making changes to the law oil and gas.

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