

THE DILEMMA OF DUAL OVERSIGHT BETWEEN THE KPK AND SOES IN HARMONIZING ACCOUNTABLE AND TRANSPARENT STATE CORPORATE GOVERNANCE

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Abstract

This study aims to analyze the dilemma of dual oversight between the Corruption Eradication Commission and State-Owned Enterprises within Indonesia's positive legal framework. The core issue arises from overlapping authorities following the amendment of Law No. 19 of 2019 concerning the Corruption Eradication Commission, which created disharmony between public oversight functions and corporate autonomy. The research employs a normative juridical method with statutory and conceptual approaches. The findings reveal that the intersection between the Corruption Eradication Commission Law and the State-Owned Enterprises Law has caused authority fragmentation and normative confusion in the state financial supervision system. This condition weakens Corruption Eradication Commission independence and increases the risk of impunity in state corporate management. The study recommends legal reform through the establishment of an integrated legal framework that strengthens inter-agency coordination and regulatory harmonization across sectors. In conclusion, aligning the legal frameworks governing Corruption Eradication Commission and State-Owned Enterprises oversight is essential to reinforce anti-corruption effectiveness and to realize a transparent, accountable, and equitable governance system for state enterprises.

Abstrak

Penelitian ini bertujuan menganalisis dilema dualisme pengawasan antara Komisi Pemberantasan Korupsi dan Badan Usaha Milik Negara dalam kerangka hukum positif Indonesia. Persoalan utama berakar pada tumpang tindih kewenangan pascarevisi Undang-Undang Nomor 19 Tahun 2019 tentang Komisi Pemberantasan Korupsi, yang menimbulkan ketidakharmonisan antara fungsi pengawasan publik dan otonomi korporasi negara. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa interseksi antara Undang-Undang Komisi Pemberantasan Korupsi dan Undang-Undang Badan Usaha Milik Negara menyebabkan fragmentasi otoritas dan kebingungan normatif dalam sistem pengawasan keuangan negara. Kondisi ini berdampak pada melemahnya independensi Komisi Pemberantasan Korupsi serta meningkatnya risiko impunitas dalam pengelolaan Badan Usaha Milik Negara. Penelitian ini merekomendasikan reformasi hukum melalui pembentukan integrated legal framework yang menegaskan koordinasi lintas lembaga dan harmonisasi regulasi antarsektor. Kesimpulannya, penyelarasan hukum pengawasan Komisi Pemberantasan Korupsi dan Badan Usaha Milik Negara menjadi syarat mendasar untuk memperkuat efektivitas pemberantasan korupsi dan mewujudkan tata kelola perusahaan negara yang transparan, akuntabel, dan berkeadilan.

INTRODUCTION

The dominance of the state in the ownership structure of State-Owned Enterprises (BUMN) has generated a conceptual dilemma between their economic and public functions. BUMN occupy a dual position as business entities governed by corporate law, and at the same time as instruments of the state in realizing social welfare as mandated by Article 33 paragraphs (2) and (3) of the 1945 Constitution of the Republic of Indonesia. This tension of roles creates a grey area in the governance of state enterprises, particularly when corruption practices emerge within their management. Such conditions demand the existence of an effective and independent oversight mechanism to ensure accountability and integrity in the administration of state corporate assets¹.

The intersection of authority between the Corruption Eradication Commission (KPK) and the Ministry of State Owned Enterprises (BUMN) illustrates the complexity of the relationship between public law and private law within the system of state corporate oversight. On the one hand, the KPK was established to eradicate corruption systematically under the mandate of Law No. 30 of 2002, as later amended by Law No. 19 of 2019. On the other hand, corporate regulations affirm that BUMN are business entities subject to the principles of corporate governance as stipulated in Law No. 19 of 2003 concerning State-Owned Enterprises. This normative overlap has produced a dual oversight phenomenon an overlap of jurisdiction between law enforcement institutions and corporate authorities which in practice results in operational ambiguity and weak public accountability².

The academic concern underlying this research arises from the emerging discourse on the weakening of the Corruption Eradication Commission's (KPK) role in overseeing corruption practices within State-Owned Enterprises (BUMN) following the amendment of Law No. 19 of 2019. The establishment of the Supervisory Board and the requirement to obtain authorization for wiretapping, arrest, and seizure have raised serious questions regarding the independence and operational reach of the anti-corruption body. This development has had a direct impact on the effectiveness of corruption eradication efforts, particularly in the management of state finances conducted through BUMN³.

In line with the findings of *Ijtihad*, the independence of oversight institutions is a fundamental element in realizing clean and effective governance. Chairana, Melayu, and Jalil emphasize that any form of restriction on the authority of external oversight bodies will weaken public control and create space for power compromise in the management

¹ B. H. Simanjuntak, "Harmonisasi Hukum Publik Dan Privat Dalam Status BUMN," *Jurnal Konstitusi* 17, no. 1 (2020): 89–107.

² T. Wibowo, "Konflik Regulasi Dalam Penegakan Hukum Korupsi Di BUMN," *Indonesian Journal of Law and Policy* 8, no. 2 (2021): 77–95.

³ V. Juwono and M. Mietzner, "The KPK, Corruption, and the Decline of Reformasi in Indonesia," *Asian Survey* 61, no. 2 (2021): 345–72, <https://doi.org/10.1525/as.2021.61.2.345>.

of state assets.⁴ Thus, the institutional redesign of the KPK following the revision of the KPK Law is not merely technical-administrative in nature, but carries direct implications for the direction of oversight over SOEs as entities that manage state wealth.

This research is limited to examining the disharmony of oversight authority between the Corruption Eradication Commission (KPK) and State-Owned Enterprises (SOEs) within the framework of Indonesia's positive law, particularly following the enactment of Law Number 19 of 2019 which amended Law Number 30 of 2002 concerning the KPK. The focus of this study does not address managerial aspects or corporate strategy of SOEs; rather, it emphasizes the legal arrangements and institutional relations of public oversight over state financial management carried out through SOEs. Accordingly, the scope of analysis is confined to the normative relationship between the public law regime and the corporate law regime, as well as its implications for the independence and effectiveness of oversight institutions. The approach employed is normative juridical, strengthened with theoretical frameworks including the Principal-Agent Theory, Good Governance, and Institutional Legal Theory.

The gap analysis indicates that the existing positive legal norms have not been able to systematically address the problem of overlapping authority between the Corruption Eradication Commission (KPK) and State-Owned Enterprises (BUMN). On one hand, public law demands transparency and state accountability over public assets; on the other hand, corporate law prioritizes efficiency, profitability, and business flexibility⁵. The inconsistency between these two legal regimes demonstrates a form of regulatory dissonance that not only hinders the enforcement of anti-corruption laws but also creates spaces of impunity within the system of state corporate governance⁶.

Based on this background, the study is grounded on the hypothesis that "the overlapping authority between the Corruption Eradication Commission (KPK) and State Owned Enterprises (BUMN) within Indonesia's positive legal framework weakens the effectiveness of corruption eradication and the governance of state enterprises; this issue can only be resolved through regulatory harmonization and the strengthening of inter-institutional coordination systems across sectors." This hypothesis is derived from the Principal Agent Theory, Good Governance Theory, and Institutional Legal Theory, which conceptually explain how authority fragmentation can undermine accountability and trigger institutional conflicts⁷.

This study employs a normative juridical method using statutory and conceptual approaches to analyze the dilemma of dual oversight resulting from the intersection

⁴ Chairana, R., Melayu, H. A., & Jalil, H. A. (2025). Tinjauan Fiqh Siyasah Terhadap Implementasi Qanun Kota Banda Aceh Nomor 2 Tahun 2021 Tentang Kota Layak Anak. *Ijtihad*, 19(1), 63-76.

⁵ A. Saragih, "Hukum Bisnis Negara Dan Konstitusionalitas Status BUMN," *Jurnal Legislasi Indonesia* 18, no. 4 (2021): 201–20.

⁶ S. Butt, "Indonesia's Anti-Corruption Reforms: The Reversal of Fortune," *Bulletin of Indonesian Economic Studies* 56, no. 3 (2020): 365–87, <https://doi.org/10.1080/00074918.2020.1825256>.

⁷ North, D. C. (1990). *Institutions, Institutional Change and Economic Performance*. Cambridge University Press., n.d.

between the KPK Law and the BUMN Law. The data used are secondary in nature, including statutory regulations, Constitutional Court decisions, official KPK reports, and contemporary academic literature from the 2020–2025 period. The analysis is conducted descriptively and analytically, focusing on identifying points of normative conflict and their impact on the principles of good governance⁸.

Based on the aforementioned background and research focus, the formulation of the problems in this study is as follows: (1) How is the form of intersection and regulatory conflict between the KPK Law and the BUMN Law in the context of state corporate oversight?

(2) What is the ideal model of legal harmonization to strengthen the effectiveness of corruption eradication and ensure accountable governance of State-Owned Enterprises (BUMN)?

This research is expected to provide a theoretical contribution to the development of constitutional law and public corporate law through the formulation of an integrated oversight model. Practically, the findings of this study are anticipated to offer policy recommendations for legislators and relevant stakeholders in harmonizing regulations, strengthening the independence of the Corruption Eradication Commission (KPK), and promoting a system of State-Owned Enterprise (BUMN) governance that is more transparent, professional, and free from jurisdictional conflicts⁹.

RESEARCH METHOD

This study employs a normative juridical approach (doctrinal legal research) because its main focus lies in examining the disharmony of regulations and the conflict of authority between Law No. 30 of 2002 concerning the Corruption Eradication Commission (KPK) as amended by Law No. 19 of 2019, and Law No. 19 of 2003 concerning State-Owned Enterprises (BUMN). This approach is chosen because the issues under study involve the analysis of positive legal norms and constitutional law principles that underpin the establishment and operation of state institutions. Within this framework, normative legal research seeks to determine the degree of consistency between existing legal norms and their implementation in institutional practice, in order to identify the occurrence of conflicts or overlapping authorities¹⁰.

This normative juridical approach is reinforced by a conceptual approach, which is used to examine relevant legal theories and doctrines such as Institutional Legal Theory, Principal Agent Theory, and Good Governance Theory. These three theoretical frameworks are employed to explain the relationship between the state as the owner of capital (principal) and State-Owned Enterprises (BUMN) as agents, as well as the position of the Corruption Eradication Commission (KPK) as an external supervisory

⁸ I. Rahadiyan, “Good Corporate Governance Dan Posisi Dewan Pengawas BUMN,” *Jurnal Hukum Ins Quia Iustum* 30, no. 1 (2023), <https://journal.uin.ac.id/IUSTUM/article/view/24028>.

⁹ A. Djamhuri, *Penguatan Tata Kelola BUMN Di Indonesia: Antara Efisiensi Dan Pengawasan Publik* (Jakarta: LP3ES, 2020).

¹⁰ Simanjuntak, “Harmonisasi Hukum Publik Dan Privat Dalam Status BUMN.”

body that plays a crucial role in maintaining public accountability^{11,12}. The conceptual approach enables a deeper analysis of the fundamental ideas of oversight and the principles of institutional accountability, thereby providing a systemic interpretation of the overlapping oversight jurisdictions between the Corruption Eradication Commission (KPK) and the Ministry of State Owned Enterprises (BUMN).

The type of data used in this research is secondary data, which consists of primary, secondary, and tertiary legal materials. The primary legal materials include relevant statutory regulations such as Law No. 19 of 2003 on State-Owned Enterprises (BUMN), Law No. 30 of 2002 in conjunction with Law No. 19 of 2019 on the Corruption Eradication Commission (KPK), Law No. 17 of 2003 on State Finance, as well as Constitutional Court Decision No. 36/PUU-XV/2017, which reaffirms the independent status of the KPK. The secondary legal materials are obtained from scholarly literature, books, research reports, national and international journal articles, and official documents issued by state institutions relevant to the subject matter of this study^{13, 14}. Meanwhile, the tertiary legal materials include legal encyclopedias, law dictionaries, and credible online sources that assist in providing both terminological and contextual understanding.

The data collection method used in this study is library research, which involves an extensive review of legal documents, academic literature, and scholarly publications published between 2020 and 2025 to ensure the relevance and currency of the sources. This approach enables the researcher to identify, compare, and comprehensively examine the development of regulations and institutional practices in the oversight of State-Owned Enterprises (BUMN) by the Corruption Eradication Commission (KPK). The analysis is conducted using a qualitative descriptive method, which interprets legal norms and scholarly doctrines to uncover the relationships between legal principles, institutional structures, and governance practices¹⁵.

In the analytical process, the researcher employs a normative comparative analysis method, which involves comparing the legal frameworks and oversight models of State-Owned Enterprises (BUMN) in Indonesia with those of other countries, such as Singapore (through Temasek Holdings) and Norway (through the Government Pension Fund Global). This comparative approach aims to derive legal lessons (lesson learned) regarding effective and integrity-based practices in the oversight of state-owned corporations¹⁶.

¹¹ Scott, W. R. (2008). *Institutions and Organizations: Ideas and Interests*. SAGE Publications., n.d.

¹² Geoffrey Rose, "E-Bikes and Urban Transportation: Emerging Issues and Unresolved Questions," *Transportation* 39, no. 1 (January 2012): 81–96, <https://doi.org/10.1007/s11116-011-9328-y>.

¹³ Juwono and Mietzner, "The KPK, Corruption, and the Decline of Reformasi in Indonesia."

¹⁴ Butt, "Indonesia's Anti-Corruption Reforms: The Reversal of Fortune."

¹⁵ M. Y. Harahap, "Reformasi Kelembagaan Negara Dan Tata Kelola Pemerintahan," *Jurnal Hukum Dan Pemerintahan* 11, no. 2 (2021): 123–40.

¹⁶ Quah, J. S. T. (2010). Combating Corruption in the Asia-Pacific Countries: What Do We Know and What Needs to Be Done? *International Public Management Review*, 11(2), 5–33., n.d.

The overall stages of this research are designed to ensure a logical relationship between theoretical foundations, positive legal norms, and institutional practices. Accordingly, the findings of this study are expected to provide a conceptual contribution to strengthening the institutional design of BUMN oversight and advancing constitutional law reform in Indonesia, particularly in establishing an oversight system that is integrative, independent, and aligned with the principles of good governance¹⁷.

DISCUSSION

1. The Legal Construction of BUMN Oversight in the Perspective of Agency Theory and Good Corporate Governance

Theoretically, the concept of oversight of State-Owned Enterprises (BUMN) can be explained through the framework of Agency Theory developed by Jensen and Meckling, which views the relationship between the principal and the agent as a contractual relationship inherently laden with potential conflicts of interest arising from information asymmetry. In the context of BUMN, the principal refers to the state, represented by the Ministry of State-Owned Enterprises (BUMN), while the agent refers to the board of directors and commissioners as the operational managers of the state corporation. This theory functions descriptively to map the legal relationship and accountability between the owner of public capital and corporate management, emphasizing that oversight serves as a corrective mechanism to reduce agency costs or deviations from the public mandate¹⁸.

Within the explanatory framework, Agency Theory is used to elucidate the legal dynamics in the implementation of BUMN oversight as regulated under Law No. 19 of 2003 on State-Owned Enterprises. The Ministry of State-Owned Enterprises (BUMN) acts both as a shareholder and an internal regulator, as stipulated in Article 2 paragraph (1) of the BUMN Law, which grants it authority to determine corporate policies, appoint directors, and evaluate performance. However, this dual role gives rise to an overlap between the administrative functions of the state and the principle of corporate autonomy, creating a tension between public accountability and managerial independence within the governance structure of BUMN. Mahardika¹⁹ emphasizes that effective oversight requires a functional separation between ownership and management to ensure that the principles of corporate governance operate optimally.

Furthermore, the Good Corporate Governance (GCG) theory broadens the understanding of BUMN oversight by emphasizing the principles of accountability, transparency, and independence. According to Djamhuri, BUMN are not merely economic entities but also instruments of state policy aimed at achieving social welfare. Therefore, the legal framework governing BUMN oversight must balance profit

17 World Bank. (2007). Strengthening World Bank Group Engagement on Governance and Anticorruption. <https://documents.worldbank.org>, n.d.

18 Rahadiyan, "Good Corporate Governance Dan Posisi Dewan Pengawas BUMN."

19 Nur Gemilang Mahardika, "Fleksibilitas Hukum Dalam Sistem Hukum Islam," *Jurnal Hukum*, 2023.

orientation with public responsibility, ensuring that corporate management operates under ethical standards and accountability mechanisms consistent with the principles of good governance.²⁰

However, empirically, the implementation of Good Corporate Governance (GCG) in Indonesian State-Owned Enterprises (BUMN) still faces serious challenges, particularly in the form of multiple office holdings and conflicts of interest. Anam and Rahadiyan point out that many BUMN directors and commissioners concurrently hold positions in other companies or governmental institutions, which undermines internal accountability and blurs the boundaries between political authority and corporate management. This condition weakens the integrity of the oversight mechanism and reflects the structural entanglement that hinders the realization of transparent and accountable governance within BUMN.²¹ They found that many BUMN directors or commissioners simultaneously hold positions in other companies or political institutions, thereby weakening internal accountability. This practice demonstrates a form of structural entanglement between political and economic power that is difficult to disentangle without comprehensive institutional legal reform aimed at strengthening governance integrity and ensuring the independence of corporate oversight mechanisms.

At the conceptual level, Public Ownership Theory and State Shareholder Governance are also relevant in reinforcing the legal argument that the state, as the owner of public shares, must refrain from direct intervention in corporate operations. Simanjuntak emphasizes that a clear separation between the regulatory function and the business function of the state is essential to ensure transparency, professionalism, and accountability in the governance of State-Owned Enterprises (BUMN).²² He asserts that a clear separation between the regulatory function and the business function of the state is an absolute requirement for the establishment of clean and transparent governance. The experience of countries such as Singapore, through Temasek Holdings, demonstrates that the success of State-Owned Enterprises (BUMN) is largely determined by the professionalism of management and the independence of oversight structures in ensuring both efficiency and integrity within state corporate governance.

Thus, the legal reconstruction of BUMN oversight in Indonesia requires an institutional reform that is not only administrative but also normative and conceptual in nature. A multi-layered oversight mechanism is needed one that integrates the principles of agency accountability with the values of good governance. This approach enables BUMN to operate within a clear and coherent legal framework, wherein the state acts as a rational shareholder while upholding the principles of social justice and the supremacy of law in the management of public assets.

²⁰ Djamhuri, *Penguatan Tata Kelola BUMN Di Indonesia: Antara Efisiensi Dan Pengawasan Publik*.

²¹ P. A. Anam and I. Rahadiyan, "Pengaturan Jabatan Rangkap Direksi Dan Komisaris BUMN: Perbandingan Indonesia Dan Amerika Serikat," *Jurnal Hukum Ins Quia Iustum* 30, no. 1 (2023), <https://journal.uin.ac.id/IUSTUM/article/view/24028>.

²² Simanjuntak, "Harmonisasi Hukum Publik Dan Privat Dalam Status BUMN."

2. The Role of the Corruption Eradication Commission (KPK) in the Enforcement of State Corporate Law

The role of the Corruption Eradication Commission (KPK) in the context of overseeing State-Owned Enterprises (BUMN) can be analyzed through the frameworks of Institutional Legal Theory and Good Governance Theory. Descriptively, this institution was established under Law No. 30 of 2002 to carry out the constitutional mandate of eradicating corruption in a systematic and independent manner. Within the framework of constitutional law, the KPK is not part of the executive, legislative, or judicial branches, as affirmed in Constitutional Court Decision No. 36/PUU-XV/2017. Therefore, the KPK possesses clear legal legitimacy to oversee all forms of abuse of public authority, including within BUMN that manage state assets and public funds²³.

From an explanatory perspective, institutionalism theory explains that the effectiveness of an anti-corruption institution is largely determined by its degree of independence and institutional capacity. The amendment of the KPK Law through Law No. 19 of 2019, which established the Supervisory Board and restricted the KPK's authority to conduct wiretapping without prior approval, is viewed as a significant weakening of the KPK's status as an independent institution. Juwono and Mietzner argue that these legislative changes have reduced the KPK's operational autonomy, limiting its ability to act swiftly and effectively in investigating corruption cases, particularly those involving BUMN where political and economic interests often intersect²⁴. They argue that the amendment has shifted the paradigm of the KPK from a watchdog institution to a bureaucratic compliance body, thereby reducing both the speed and sharpness of law enforcement. This institutional transformation has had tangible effects, as reflected in the decline in the number of strategic corruption cases in the BUMN sector following the revision of the law, including major cases such as PT Garuda Indonesia and Jiwasraya Insurance, where investigative momentum and prosecutorial assertiveness significantly weakened after the regulatory changes.

This shift is particularly consequential in the context of BUMN oversight, where corruption is often intertwined with political and ministerial decision-making. The Airbus procurement scandal in PT Garuda Indonesia (2017-2020) illustrates the overlapping domains of KPK authority and the Ministry of State Owned Enterprises. KPK attempted to investigate bribery involving aircraft procurement contracts; however, internal ministerial audits and managerial discretion were used to delay cooperation and disclosure. Similarly, in the Jiwasraya - Asabri corruption cases (2019-2022), KPK faced fragmented authority and differing interpretations regarding whether losses constituted *state losses* under criminal law or *investment failure* under corporate governance standards. These cases demonstrate that internal supervisory mechanisms within BUMN (commissioners, internal audit units, and ministerial oversight) do not operate effectively without external enforcement power.

²³ Butt, "Indonesia's Anti-Corruption Reforms: The Reversal of Fortune."

²⁴ Juwono and Mietzner, "The KPK, Corruption, and the Decline of Reformasi in Indonesia."

The core of the overlapping authority problem arises from the dual nature of BUMN as both business entities and state instruments. Under Law No. 19 of 2003, the Ministry of SOEs is vested with managerial oversight, including appointment of directors and approval of corporate policies, whereas KPK holds investigatory powers related to misuse of state finances. When allegations of corruption arise, the Ministry may frame decisions as business judgments rather than acts involving public accountability, thereby shielding BUMN directors behind corporate autonomy doctrines. This creates a jurisdictional ambiguity: whether misconduct is subject to administrative-corporate review or criminal prosecution. In practice, this ambiguity has delayed investigations and reduced the deterrent effect of anti-corruption enforcement.

In a predictive context, Good Governance Theory provides direction that the strengthening of anti-corruption institutions should focus on three main aspects: transparency in legal processes, institutional independence, and cross-sectoral coordination. Quah²⁵ through comparative studies, demonstrates that countries such as Hong Kong with its Independent Commission Against Corruption (ICAC) and Singapore with its Corrupt Practices Investigation Bureau (CPIB) have successfully reduced corruption levels through institutions endowed with full autonomy, independent budgets, and strong political support. This lesson is crucial for Indonesia in reformulating the position of the Corruption Eradication Commission (KPK) so that it possesses substantive authority over state corporations, without becoming entangled in jurisdictional conflicts with the Ministry of BUMN or the Audit Board of Indonesia (BPK).

In addition, the Preventive Law Enforcement Theory emphasizes the importance of corruption prevention through the implementation of electronic reporting systems such as e-LHKPN (Electronic Wealth Report) and the Gratification Control System. Disemadi and Wahyuningrum²⁶ argue that these strategies are effective in strengthening institutional integrity, provided that the KPK maintains procedural independence in their execution. Accordingly, the effectiveness of oversight over BUMN largely depends on the extent to which the legal system can preserve a balance between the KPK's repressive and preventive powers, ensuring that law enforcement remains both proactive in deterring misconduct and firm in prosecuting corruption within state corporate structures.

Within the constitutional framework, the weakening of the Corruption Eradication Commission (KPK) is not merely an institutional issue but also a matter of the legal and moral legitimacy of the state. Harahap²⁷ emphasizes that a rule of law (*rechtsstaat*) requires the existence of autonomous supervisory institutions to guarantee substantive justice and uphold the integrity of public governance. Therefore, legal reform aimed at restoring the independence of the KPK while clarifying

²⁵ Quah, J. S. T. (2010). Combating Corruption in the Asia-Pacific Countries: What Do We Know and What Needs to Be Done? *International Public Management Review*, 11(2), 5–33.

²⁶ Disemadi, H. S., & Wahyuningrum, K. S. (2020). *Independensi Komisi Pemberantasan Korupsi: Benarkah Ada? Refleksi Hukum*. Link, n.d.

²⁷ Harahap, "Reformasi Kelembagaan Negara Dan Tata Kelola Pemerintahan," 2021.

its relationship with the state corporate sector has become a constitutional imperative to maintain public trust and ensure the effectiveness of national governance.

From a constitutional perspective, this situation illustrates the tension between administrative control (*internal corporate accountability*) and criminal law control (*external public accountability*). The weakening of KPK's independence disrupts the checks and balances required to prevent concentrated executive power in the management of state resources. To ensure effective anti-corruption oversight in BUMN, the legal framework must reconstruct the KPK's role as an independent integrity institution, with explicit jurisdiction over state corporate transactions and standardized coordination mechanisms with internal supervisory bodies (BPK, Ministry of SOEs, and corporate audit committees).

3. Intersection of Regulations and Overlapping Authorities between the KPK Law and the BUMN Law

The phenomenon of regulatory intersection between the Corruption Eradication Commission Law (Law No. 30 of 2002 jo. Law No. 19 of 2019) and the State-Owned Enterprises Law (Law No. 19 of 2003) reveals a conceptual conflict within Indonesia's national legal system. Descriptively, this overlap of authority arises from the contrasting legal characteristics of the two institutions. The KPK Law is grounded in public law, emphasizing the function of law enforcement against the misuse of state finances, whereas the BUMN Law is governed by private law principles, prioritizing corporate governance, efficiency, and managerial autonomy. In practice, this divergence creates a jurisdictional grey area, particularly in determining whether the actions of BUMN officials that cause state financial losses fall within the domain of public corruption or merely constitute corporate managerial misconduct²⁸.

Normatively, the basis for the overlapping oversight between the KPK and SOEs originates from the legal construction in Law Number 19 of 2003 concerning State-Owned Enterprises. Article 2 paragraph (1) stipulates that SOEs are business entities established to generate profit, thereby placing their legal position within the private law regime. Furthermore, Article 15 grants the Minister of SOEs the authority to conduct guidance and supervision as the representative of the state as shareholder. The normative consequence of these provisions is that internal oversight in SOEs operates under the principle of corporate autonomy, in which the assessment of the actions of directors and commissioners is measured through the *business judgment rule* and corporate performance indicators, rather than through an external public oversight regime²⁹.

On the other hand, Law Number 30 of 2002 in conjunction with Law Number 19 of 2019 concerning the KPK affirms that the KPK is authorized to carry out prevention and enforcement of criminal acts of corruption involving state finances, as stipulated in Article 1 point 1 in conjunction with Article 6. This legal construction demonstrates that although SOEs are subject to the principle of corporate autonomy,

²⁸ Simanjuntak, "Harmonisasi Hukum Publik Dan Privat Dalam Status BUMN."

²⁹ Undang-Undang Nomor 19 Tahun 2003 tentang BUMN, Pasal 2 ayat (1) dan Pasal 15.

SOE assets are still classified as state assets that are separated, so that their use or misuse remains within the scope of KPK oversight. Therefore, the public law regime continues to apply to the management of SOE assets whenever there are indications of abuse of authority or state financial loss³⁰.

The legal status of SOE assets has been clarified by the Constitutional Court through Decision Number 62/PUU-XI/2013 and Decision Number 48/PUU-XVII/2019, which affirm that state assets separated within SOEs remain part of state finances in the context of public accountability. Accordingly, any irregularity in the management of SOEs may be classified as a criminal act of corruption, rather than merely a matter of business policy. The normative implication is that KPK oversight cannot be excluded on the basis of corporate autonomy, meaning that the business discretion of SOEs cannot be used as justification for actions that result in losses to state finances³¹.

From an explanatory perspective, the Conflict of Laws theory in public administrative law is relevant in explaining this normative disharmony. The conflict arises due to a jurisdictional overlap between administrative bodies (such as the Ministry of State-Owned Enterprises and the Audit Board of Indonesia/BPK) and law enforcement institutions (such as the KPK, the Attorney General's Office, and the National Police) in handling corruption cases involving state corporations. When the KPK conducts investigations into procurement practices within BUMN, it often faces resistance from internal corporate actors, who argue that such matters fall under the domain of internal corporate control rather than external law enforcement. Wibowo³² observes that this situation reflects the absence of a clear legal demarcation between internal and external oversight functions, which ultimately weakens the effectiveness of law enforcement and blurs institutional accountability in managing state assets.

Furthermore, the Institutional Fragmentation Theory illustrates that the division of authority without proper coordination leads to systemic inefficiency and inter-institutional conflict. The fragmentation among the KPK, BPK, and the Ministry of State-Owned Enterprises (BUMN) has become a primary source of dual oversight in the governance of state corporations. Buscaglia and Dakolias³³ argue that legal fragmentation, when not supported by mechanisms of vertical and horizontal harmonization, results in a weak state capacity to uphold the principles of public accountability. In this sense, the theory serves an explanatory function by revealing that the root of the problem lies not merely in the legal norms themselves, but in an unsynchronized institutional design that fosters overlapping mandates and weak coordination.

³⁰ Undang-Undang Nomor 30 Tahun 2002 jo. Undang-Undang Nomor 19 Tahun 2019 tentang KPK, Pasal 1 angka 1 jo. Pasal 6.

³¹ Putusan Mahkamah Konstitusi Nomor 62/PUU-XI/2013 dan Putusan Mahkamah Konstitusi Nomor 48/PUU-XVII/2019.

³² Wibowo, "Konflik Regulasi Dalam Penegakan Hukum Korupsi Di BUMN."

³³ Buscaglia, E., & Dakolias, M. (1999). Comparative International Study of Court Performance Indicators: A Descriptive and Analytical Account. The World Bank Legal Review., n.d.

A concrete example of this regulatory disharmony can be observed in the corruption case involving the procurement of Airbus aircraft by PT Garuda Indonesia, where the KPK and the Audit Board of Indonesia (BPK) produced differing calculations of state financial losses. The divergence in audit methodologies reveals the absence of a cross-agency Standard Operating Procedure (SOP), causing delays in KPK investigations due to the lack of technical consensus among oversight institutions. This situation has a direct impact on public accountability, as no single institution holds final authority over financial irregularities in BUMN³⁴.

From a predictive perspective, the Integrative Legal Framework Theory provides a normative direction for addressing this issue. The integrative approach underscores the importance of regulatory harmonization across sectors through a formally institutionalized inter-agency coordination system. According to Harahap³⁵ the design of such coordination mechanisms must adhere to the principle of functional differentiation, where each institution possesses explicit yet complementary powers. Within this framework, the Constitutional Court must play a vital role through judicial review of multi-interpretative provisions that create jurisdictional conflicts, as reaffirmed in Decision No. 36/PUU-XV/2017.

Moreover, integrated legal drafting in the formulation of the 2025 Draft BUMN Law (RUU BUMN 2025) becomes crucial to ensuring coherence within the legal system. The forthcoming legislation should explicitly recognize the KPK as an external integrity enforcer, endowed with specific jurisdiction over cases involving the misuse of state finances within BUMN. Saragih³⁶ emphasizes that without explicit recognition of this supervisory function, overlapping authority will persist, hindering the establishment of an accountable state corporate governance framework. Thus, the Integrative Legal Theory not only explains the phenomenon of legal disharmony but also provides a predictive pathway for future regulatory reform through the creation of a structured, hierarchical, and mutually reinforcing institutional coordination system ensuring that each agency functions within a unified legal architecture that strengthens both anti-corruption enforcement and corporate accountability.

4. The Impact of Regulatory Intersection on Governance and Corruption Eradication

The overlapping authority between the KPK Law and the BUMN Law has a direct impact on the quality of governance and the effectiveness of corruption eradication in Indonesia. Based on Principal Agent Theory, the government (as the principal) appoints BUMN and the KPK as agents to perform public service and supervisory functions. When these two agents experience jurisdictional conflict, agency

³⁴ A. S. Utama, "Independensi Pengawasan Terhadap Bank BUMN Dalam Sistem Hukum Nasional," *Soumatara Law Review* 4, no. 2 (2018), <https://ejournal.kopertis10.or.id/index.php/soumlaw/article/view/3312>.

³⁵ M. Y. Harahap, "Reformasi Kelembagaan Negara Dan Tata Kelola Pemerintahan," *Jurnal Hukum Dan Pemerintahan* 11, no. 2 (2021): 123–40.

³⁶ Saragih, "Hukum Bisnis Negara Dan Konstitusionalitas Status BUMN."

costs increase in the form of weakened oversight and declining public accountability³⁷ Descriptively, this condition explains why many corruption cases within BUMN have remained unresolved for years, as seen in the Jiwasraya and Krakatau Steel cases, which illustrate the failure of inter-agency checks and balances and the erosion of institutional responsiveness to corruption³⁸.

From an explanatory perspective, Institutional Isomorphism Theory, as proposed by Richard Scott³⁹ helps explain that public institutions tend to imitate dominant structures in their environment. When the KPK's authority is weakened through legislative revision, other oversight bodies such as the Audit Board of Indonesia (BPK) and the Inspectorate General tend to experience a parallel decline in performance. Budima⁴⁰ refers to this phenomenon as institutional decay a form of bureaucratic deterioration that spreads across the state administration system. In the context of BUMN, this decay manifests in the emergence of a permissive culture toward power abuse, where acts of corruption or maladministration are increasingly viewed as routine managerial risks rather than serious ethical violations.

Furthermore, Rule of Law Theory places institutional independence at the core of a clean and just governance system. Butt⁴¹ asserts that the weakening of the KPK following the amendment of Law No. 19 of 2019 represents a major regression in Indonesia's legal reform, as it undermines the principle of the supremacy of law and shifts the paradigm of corruption eradication from a systemic to a symbolic model. Within this perspective, the consequences of such weakening are not only juridical but also ethical, as it erodes public trust in the state's moral legitimacy and its commitment to upholding the rule of law.

From a predictive standpoint, Good Governance Theory provides a normative foundation for improving BUMN governance in the future. The principles of transparency, public participation, and accountability must be institutionalized within both regulations and oversight practices. Transparency International⁴² recommends integrating preventive compliance mechanisms in BUMN through independent audits and technology-based whistleblowing systems. In addition, the establishment of a Joint Supervisory Committee between the KPK, BPK, and the Ministry of

³⁷ Rahadiyan, "Good Corporate Governance Dan Posisi Dewan Pengawas BUMN."

³⁸ Manullang, S. O., & Kusumadewi, Y. (2023). *Problematisasi Hukum Atas Perubahan UU KPK*. Jurnal on Law and Justice. Link, n.d.

³⁹ Richard M. Conran et al., "Due Process in Medical Education: Legal Considerations," *Academic Pathology* 5 (2018): 2374289518807460, <https://doi.org/10.1177/2374289518807460>.m

⁴⁰ Budiman, M. (2021). *Tantangan Dan Isu Strategis Gerakan Antikorupsi Terkini*. Syntax Idea. Link, n.d.

⁴¹ Butt, "Indonesia's Anti-Corruption Reforms: The Reversal of Fortune."

⁴² Dita Fisdian Adni, Christine B Tenorio, and Evi Zubaidah, "Political Dynamics of Innovative Policy Development in Managing Forest Fires in Riau Province," *International Journal of Safety and Security Engineering* 15, no. 4 (April 2025), <https://doi.org/10.18280/ijss.150406>.

BUMN could serve as a collaborative model to prevent overlapping supervision while ensuring coherence within the national integrity framework⁴³.

Within the broader context of national legal policy, Wibangsa, Saputra, and Agam⁴⁴ argue that multi-agency coordination is essential to strengthen the integrity of oversight systems and mitigate the risks of state capture. The KPK should evolve into a National Integrity Hub, functioning not only as a repressive law enforcement agency but also as a norm-setting institution that defines ethical and governance standards for state corporations. Thus, the harmonization of the KPK Law and the BUMN Law should not be seen merely as an administrative adjustment, but rather as a strategic legal reform a critical step toward restoring the rule of law, enhancing the effectiveness of governance, and reaffirming Indonesia's commitment to a clean and accountable state administration.

CONCLUSION

Based on the theoretical and juridical analysis, this study concludes that the regulatory intersection between the KPK Law and the BUMN Law has resulted in authority fragmentation and normative confusion in the practice of law enforcement. This fragmentation weakens coordination between the KPK, the Ministry of State-Owned Enterprises (BUMN), and the Audit Board of Indonesia (BPK), ultimately leading to jurisdictional overlap and inefficiency in the oversight of state finances. To address this condition, it is necessary to develop an integrated legal framework that restructures inter-institutional relations through regulatory harmonization and the establishment of cross-sectoral standard operating procedures (SOPs). This model may be adapted from international best practices such as Temasek Holdings in Singapore, which successfully separates the functions of ownership, regulation, and supervision within its public corporate governance system.

As normative and academic recommendations, this study proposes three strategic measures. First, the government and the House of Representatives (DPR) should undertake a legal harmonization process between the KPK Law and the BUMN Law to eliminate overlapping authorities and clarify the jurisdictional boundaries of supervisory institutions. Second, it is necessary to strengthen the institutional framework of the KPK through regulatory amendments that guarantee operational independence and ensure transparent external oversight in line with the principle of the rule of law. Third, further research should be directed toward evaluating the implementation of the integrated oversight system following the revision of the BUMN Law (2025). Accordingly, the proposed model of state corporate oversight is expected to become more integrated, accountable, and constitutionally

⁴³ World Bank. (2007). Strengthening World Bank Group Engagement on Governance and Anticorruption. <https://documents.worldbank.org>.

⁴⁴ Wibangsa, P., Saputra, A. D., & Agam, F. B. (2025). Penegakan Hukum Dan Pemberantasan Korupsi Di Indonesia. *Kultura: Jurnal Ilmu Sosial*. Link, n.d.

consistent, aligning with the spirit of anti-corruption reform and the goals of a just and effective governance system in Indonesia.

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