

## The Limitation of KPK's Authority Over BUMN Officials: Legal, Theoretical, and Institutional Implications

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### Abstract

This study explores the legal and institutional consequences of limiting the authority of the Corruption Eradication Commission (KPK) in prosecuting corruption cases involving State-Owned Enterprises (BUMN), particularly after the enactment of Law No. 1 of 2025 and Law No. 19 of 2019. Using a normative juridical method that incorporates statutory analysis, conceptual frameworks, and relevant case studies, the research highlights a significant shift in the legal status of BUMN directors and commissioners. By no longer recognizing them as state administrators, the law effectively reduces the KPK's oversight capabilities and creates a potential legal vacuum. This shift poses a risk of enabling undetected corruption in strategic sectors of the economy and undermines public confidence in anti-corruption institutions. To bridge legal interpretation and institutional practice, this study draws from the theory of authority and institutional effectiveness. It emphasizes the need for clearer legal definitions and coherence in regulatory design. As a policy recommendation, the study calls for the revision of existing laws to restore the KPK's functional oversight over BUMN officials and proposes a renewed interpretation of "state administrator" to align with anti-corruption objectives.

## INTRODUCTION

Corruption, as a social phenomenon, reflects deviant human behavior in social interactions that jeopardizes both society and the state.<sup>1</sup> According to *Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi*, corruption encompasses a wide range of actions that harm state finances, including bribery, extortion by officials, and gratification. Corruption has been proven to cause negative impacts on human life, both in economic aspects and in social norms and cultural values.<sup>2</sup> Today, corruption has become a chronic issue faced by both developed and developing countries around the world, including Indonesia. The *Komisi Pemberantasan Korupsi (KPK)* was established in 2002 to address corruption issues occurring in Indonesia. Corruption has infiltrated various levels, from government institutions to *Badan Usaha Milik Negara (BUMN)*.

The enactment of *Undang-Undang Nomor 1 Tahun 2025 tentang Perubahan Ketiga atas Undang-Undang Nomor 19 Tahun 2003 tentang Badan Usaha Milik Negara* (hereinafter referred to as *Undang-Undang BUMN*) has sparked public controversy. This law is considered to have weakened the authority of the *Komisi Pemberantasan Korupsi (KPK)*, particularly because Article 3X paragraph 1 states that BUMN organs and employees are not classified as state administrators, and Article 9G declares that members of the board of directors, board of commissioners, and supervisory board of BUMN are not state administrators. This implies that KPK no longer has the authority to investigate corruption cases within BUMN, as the mandate of KPK is limited to handling corruption committed by state administrators under the current law. According to data from Indonesia Corruption Watch (ICW), there were 119 corruption cases involving 340 suspects from 2016 to 2021, resulting in state losses of up to IDR 47.9 trillion.<sup>3</sup> This data illustrates that corruption within BUMN is a serious problem that must be addressed earnestly. The removal of the state administrator status for directors, commissioners, and supervisory board members of BUMN through *Undang-Undang Nomor 1 Tahun 2025* has raised serious concerns, particularly regarding anti-corruption efforts in Indonesia. In Max Weber's classical theory of authority, state authority in modern governance relies on

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<sup>1</sup> Nandha Risky Putra and Rosa Linda, "Korupsi Di Indonesia: Tantangan Perubahan Sosial," *Integritas: Jurnal Antikorupsi* 8, no. 1 (2022): 13–24, <https://doi.org/10.32697/integritas.v8i1.898>.

<sup>2</sup> Arfin bin Ibrahim Fasini, "Kendala Pengembalian Aset Hasil Tindak Pidana Korupsi Transnasional," *Jurnal BPPK: Badan Pendidikan Dan Pelatihan Keuangan* 11, no. 1 (2018): 28–55, <https://doi.org/10.48108/jurnalbppk.v11i1.49>.

<sup>3</sup> Indonesia Corruption Watch, "Kasus Korupsi Di Lingkungan BUMN: Marak Dan Rawan Pada Sektor Finansial," [antikorupsi.org](https://antikorupsi.org/id/kasus-korupsi-di-lingkungan-bumn-marak-dan-rawan-pada-sektor-finansial), 2022, <https://antikorupsi.org/id/kasus-korupsi-di-lingkungan-bumn-marak-dan-rawan-pada-sektor-finansial>.

legal legitimacy that is, authority based on formal and legal rules. As an independent institution born of the reform movement, KPK possesses such rational-legal authority. Therefore, when KPK's legal mandate to supervise BUMN is revoked, it represents a systemic weakening of the oversight mechanisms previously in place.

Legally, KPK's authority is limited by the definition of state administrator as stipulated in its founding law. When BUMN officials are no longer categorized as state administrators, KPK automatically loses its legal basis to investigate, prosecute, and try corruption cases within BUMN. This issue is not merely a matter of legal interpretation, but rather a reflection of the direction of the state's political and legal stance toward corruption eradication. Such legal ambiguity presents significant risks, as it may be exploited by actors aiming to conduct corruption more discreetly. Furthermore, from the perspective of institutional theory, as articulated by Philip Selznick, state institutions not only exercise formal authority but also bear ethical responsibilities to society.<sup>4</sup> When the state, through its legal policies, weakens institutions such as KPK that are tasked with combating extraordinary crimes like corruption, it fails to fulfill both moral and constitutional obligations.<sup>5</sup> This reinforces concerns that the elimination of state administrator status for BUMN officials is not simply administrative but represents deregulation that endangers the principles of the rule of law and social justice.

These concerns are amplified by the strategic role of BUMN in the national economy. BUMN not only manage vast public resources but also execute state strategic projects.<sup>6</sup> In many cases, this position makes BUMN vulnerable to the abuse of authority by internal actors. In this context, the absence of KPK oversight creates significant accountability gaps, particularly when internal oversight mechanisms remain ineffective. A reflective example is the *Jiwasraya* case, where a BUMN was involved in a major corruption scandal that resulted in massive state financial losses.<sup>7</sup> The case was exposed through the active involvement of KPK and other law enforcement agencies. If, in the future, BUMN officials

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<sup>4</sup> Meldiya Kismonia Chanda and Eka Vidya Putra, "Internalisasi Budaya Organisasi (Studi Budaya Organisasi Bawaslu Sumatera Barat)," *Jurnal Perspektif: Jurnal Kajian Sosiologi Dan Pendidikan* 4, no. 1 (2021): 39–53, <https://doi.org/10.24036/perspektif.v4i1.392>.

<sup>5</sup> Patar Tampubolon, Manotar Tampubolon, and Mompang L. Panggabean, "Kajian Kriminologi Korupsi Di Sektor Publik Di Indonesia," *Berajah Journal* 4, no. 2 (2022): 211–234, <https://doi.org/10.47353/bj.v4i2.303>.

<sup>6</sup> Ulfiah Ulfiah, Eryus Amran Koto, and Sari Ningsih, "Kebijakan Satu Peta Dan Satu Data Dalam Program Percepatan Pengadaan Informasi Geospasial Dasar Dan Informasi Geospasial Tematik (Kerja Sama Badan Informasi Geospasial Dengan Badan Usaha Milik Negara)," *ANTASENA: Governance and Innovation Journal* 2, no. 1 (2024): 42–53, <https://doi.org/10.61332/antasena.v2i1.171>.

<sup>7</sup> Suhartono Suhartono, Radahtul Jannah, and Namla Elfa Syariati, "Kajian Kritis Terhadap Fenomena Fraud BUMN; Tinjauan Fraud Diamond Theory," *Islamic Economic and Business Journal* 4, no. 2 (2022): 20–46, <https://doi.org/10.30863/iebjournal.v4i2.3757>.

are no longer subject to KPK supervision, opportunities to uncover such cases may diminish drastically. Corruption within BUMN often involves complex networks of power that are difficult to dismantle without the specialized authority held by KPK.

The implications of this policy change are not confined to the legal domain. Socially, public perception of government integrity depends heavily on consistency and firmness in anti-corruption efforts.<sup>8</sup> When the public perceives an effort to undermine anti-corruption institutions through legislation, trust in the political system and legal institutions tends to decline. Based on David Beetham's theory of legitimacy, political authority loses legitimacy when its norms and practices are seen as unjust or inconsistent with public values. From an economic perspective, the potential losses are also significant. A non-transparent business environment prone to collusion and corruption reduces Indonesia's attractiveness as an investment destination. Investors prefer jurisdictions that ensure legal certainty and sound governance. If BUMN officials fall outside the scope of KPK authority, the risk of investment in BUMN-managed sectors will increase sharply, leading to slow economic growth and limited job creation in the long run.

Weakening KPK's authority also risks widening the gap between rhetorical anti-corruption commitments and actual legal-political realities. Bureaucratic reform and BUMN governance will be ineffective without adequate oversight mechanisms. More than just a law enforcement body, KPK is a symbol of the state's commitment to integrity.<sup>9</sup> Therefore, curtailing KPK's powers undermines that commitment both symbolically and substantively. As a solution, it is essential to review the substance of *Undang-Undang Nomor 1 Tahun 2025*. A revision could include a clause stating that BUMN officials who manage state finances and perform public functions remain under KPK supervision. Alternatively, the *Undang-Undang Komisi Pemberantasan Korupsi* could be amended to expand KPK's jurisdiction, not only limited to state administrators, but based on the nature of the position and responsibility over state finances.

This would preserve KPK's relevance and effectiveness in overseeing public financial management. Amid evolving corruption threats in more complex forms, the state should strengthen not weaken the institutions that uphold systemic integrity. Without the courage to reconstruct legal policies aligned with transparency and accountability, anti-

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<sup>8</sup> Willy Yohanes and Hudi Yusuf, "Dampak Tindak Pidana Ekonomi Khusus Terhadap Investasi Asing: Analisis Kasus Kejahatan Korporasi Di Sektor Industri," *Jurnal Intelek Insan Cendikia* 1, no. 9 (2024): 5095–5111, <https://jicnusantara.com/index.php/jiic/article/view/1421>.

<sup>9</sup> Wawan Heru Suyatmiko, "Memaknai Turunnya Skor Indeks Persepsi Korupsi Indonesia Tahun 2020," *Integritas: Jurnal Antikorupsi* 7, no. 1 (2021): 161–78, <https://doi.org/10.32697/integritas.v7i1.717>.

corruption in BUMN risks becoming a hollow discourse. The role of *Komisi Pemberantasan Korupsi* (KPK) is constitutionally grounded in the *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945* (UUD 1945) and the foundational values of *Pancasila*. In the context of UUD 1945, anti-corruption efforts are closely tied to the mandates of Article 27 paragraph (1) and Article 28D paragraph (1), which guarantee equality before the law and the right of every citizen to legal certainty and justice.<sup>10</sup> Corruption, as an abuse of power for personal gain, directly contradicts these constitutional principles. Furthermore, *Pancasila* as the national ideology mandates social justice for all Indonesians—an ideal that cannot be achieved while corruption persists, especially in strategic sectors such as BUMN.

BUMN serve as the government's instruments in achieving public welfare through the management of state wealth and public resources.<sup>11</sup> When BUMN directors are no longer recognized as state administrators, a substantial oversight gap arises, particularly with respect to KPK's jurisdiction. This change reduces accountability and blurs lines of responsibility for officials managing large state budgets. Historical evidence shows that corruption in BUMN often leads to substantial financial losses for the state. Hence, the government must reaffirm that BUMN officials are subject to anti-corruption oversight, both formally and institutionally.

KPK's existence as an independent institution with a specific anti-corruption mandate is a product of reform and a key milestone in Indonesia's legal democratization.<sup>12</sup> Despite facing political and regulatory challenges, the commitment to integrity and transparency must be upheld. The government should support the empowerment of KPK through clear regulatory frameworks, including restoring oversight over public officials within BUMN. Strengthening this institution not only demonstrates a commitment to eradicating corruption, but also affirms adherence to the rule of law and *Pancasila*.

In the midst of global challenges and increasing demands for transparency, Indonesia must demonstrate serious efforts to build a clean and accountable government. Anti-corruption should not end with ceremonies or political rhetoric but be implemented through tangible actions including legal reforms that reinforce KPK's role. Revising laws

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<sup>10</sup> Ade Tiyo Warman et al., "Peran Sila Kedua Pancasila Dalam Menjamin Hak Atas Kesetaraan Di Hadapan Hukum," *Realisasi: Ilmu Pendidikan, Seni Rupa Dan Desain* 2, no. 2 (2025): 135–41, <https://doi.org/10.62383/realisasi.v2i2.597>.

<sup>11</sup> Rio Fafen Ciptaswara and Sulistiowati, "Implementasi Hilirisasi Mineral Dan Batu Bara Dalam Rangka Mewujudkan Kedaulatan Energi Dan Daya Saing Industri Nasional," *Mimbar Hukum* 34, no. 2 (2022): 521–58, <https://doi.org/10.22146/mh.v34i2.3490>.

<sup>12</sup> Raffi Ikzaaz Abdallah et al., "Tinjauan Yuridis Terhadap Penghapusan KPK Serta Pelimpahan Hak, Kewajiban, Dan Wewenang Aparatur Hukum," *Media Hukum Indonesia (MHI)* 2, no. 3 (2024): 379–85, <https://doi.org/10.5281/zenodo.12188696>.

that weaken KPK, such as removing the status of BUMN directors as state administrators, is a necessary step. By establishing a robust, constitutionally grounded oversight system, Indonesia can close corruption loopholes and restore public trust in a clean, responsible government.

## METHOD

This study employs a normative juridical method, utilizing a statute approach, a conceptual approach, and a case approach. The statute approach is used to examine legal norms governing the status of state administrators, the authority of the Komisi Pemberantasan Korupsi (KPK), and the legal position of the board of directors and commissioners of Badan Usaha Milik Negara (BUMN), as stipulated in Undang-Undang Nomor 19 Tahun 2003, Undang-Undang Nomor 30 Tahun 2002 as lastly amended by Undang-Undang Nomor 1 Tahun 2025, and Undang-Undang Nomor 28 Tahun 1999 tentang Penyelenggaraan Negara yang Bersih dan Bebas dari KKN. The conceptual approach is applied to explore theories of administrative law, institutional theory, and institutional legitimacy in the context of anti-corruption efforts. Meanwhile, the case approach is used to critically examine corruption cases in BUMN handled by KPK before and after the legislative amendments. Secondary data sources include legal literature, official documents, court decisions, KPK annual reports, and academic publications. The analysis is conducted qualitatively, with emphasis on legal reasoning and institutional rationality.

## RESULT AND DISCUSSION

### Result

#### **1. The Shift in Legal Status of BUMN Directors and Its Implications for KPK Authority in the Perspective of Authority Theory.**

The change in the legal status of directors of *Badan Usaha Milik Negara (BUMN)* as no longer classified as state administrators under *Undang-Undang Nomor 1 Tahun 2025* has had significant implications for the authority of the *Komisi Pemberantasan Korupsi (KPK)* from the perspective of authority theory. This change marks a critical shift in Indonesia's anti-corruption framework. Under this regulation, BUMN directors are no longer categorized as state administrators as previously defined in *Undang-Undang Nomor 28 Tahun 1999 tentang Penyelenggaraan Negara yang Bersih dan Bebas dari Korupsi, Kolusi, dan Nepotisme*. This shift reflects a significant paradigm change, especially regarding the scope of authority of the anti-corruption agency, KPK, which has historically held jurisdiction over state administrators. This condition necessitates an urgent

reevaluation of the relationship between the status change and the theory of authority, as well as its impact on the role of KPK.

Prior to the enactment of *Undang-Undang Nomor 1 Tahun 2025*, the status of BUMN directors as state administrators had been affirmed through several regulations and judicial practices. *Undang-Undang Nomor 28 Tahun 1999* explicitly included BUMN officials within the scope of state administrators, as they manage state assets, even if legally those assets are considered separate. This view was supported by the Constitutional Court Decision *Nomor 25/PUU-XIV/2016*, which affirmed that BUMN officials fall under the category of state administrators due to their role in managing public wealth.<sup>13</sup> Consequently, KPK's legal authority to take action against BUMN directors was grounded in *Undang-Undang Komisi Pemberantasan Korupsi (UU Nomor 19 Tahun 2019)*, particularly in Articles 11 and 12.

However, following the passage of *Undang-Undang Nomor 1 Tahun 2025*, a new provision explicitly states that BUMN directors are no longer state administrators. This legal modification has triggered debate, as functionally, BUMN directors continue to manage state resources, yet their legal status has been redefined as corporate professionals. This change has implications for the removal of obligations such as the submission of *Laporan Harta Kekayaan Penyelenggara Negara (LHKPN)* and the potential loss of KPK's authority to prosecute BUMN directors involved in corruption. As a result, KPK's jurisdiction is increasingly restricted, raising concerns over a weakening of anti-corruption efforts within state-owned corporate entities.

From the perspective of administrative law, institutional authority must be based on the principle of legality and must originate from a source of attribution, delegation, or mandate. Authority theory emphasizes that no institution can exercise power without a legal basis. In this context, KPK's authority is derived from direct statutory attribution. Articles 6 and 11 of *Undang-Undang Nomor 19 Tahun 2019* grant KPK the authority to handle corruption crimes committed by state administrators and/or civil servants, particularly when involving significant state losses or public interest. Therefore, when BUMN directors are no longer legally classified as state administrators, the basis for KPK's attributed authority over them is effectively revoked.

This legal situation places KPK in a juridical dilemma. On one hand, KPK's normative basis to act against BUMN directors has weakened. On the other hand, these directors still functionally control substantial public assets critical to national interest. This raises a fundamental question within authority theory: does a change in formal legal status automatically nullify the substantive authority of KPK to oversee and prosecute corruption in BUMN? From a constitutional law

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<sup>13</sup> Ishvianti Joenaini Koenti, Takaria Dinda Diana Ethika, and Rendradi Suprihandoko, "Aktualisasi Pancasila Dalam Etika Penyelenggara Negara Untuk Mewujudkan Negara Yang Bersih Bebas Korupsi, Kolusi Dan Nepotisme," in *Prosiding Seminar Nasional Program Doktor Ilmu Hukum*, 2022, 221–33, <https://proceedings.ums.ac.id/pdih/article/view/2923>.

standpoint, this scenario exposes tensions between formal legal principles and substantive justice in law enforcement.

The elimination of state administrator status for BUMN directors creates a potential legal vacuum, particularly in maintaining public integrity and transparency. While other law enforcement bodies such as the police or the public prosecutor's office remain legally competent, they often lack the institutional independence and capacity of KPK, potentially undermining deterrence and enabling unchecked abuse of power. This imbalance underscores the importance of pairing authority delegation with robust oversight mechanisms, not merely formal administrative changes.

Furthermore, the removal of this status affects the overall ecosystem of *Good Corporate Governance* (GCG) within BUMN. The principles of transparency, accountability, and integrity that form the foundation of GCG may erode,<sup>14</sup> especially in the absence of mechanisms such as mandatory asset disclosures, gratuity reporting, and ethical oversight. KPK has played a critical role in encouraging ethical compliance among BUMN officials, as evidenced by its role in the *Garuda Indonesia*, *Jiwasraya*, and *Krakatau Steel* cases. If KPK oversight is removed, GCG enforcement in BUMN may become fragile, reducing public confidence in the state's asset management.

From a comparative legal perspective, many countries maintain public oversight of officials in state-owned companies, regardless of their legal status as private entities. In ASEAN countries, oversight of state-owned enterprise officials focuses on public functions and responsibilities rather than formal status. For instance, in the Philippines, officials in *Government-Owned and Controlled Corporations* (GOCCs) must submit a *Statement of Assets, Liabilities, and Net Worth* (SALN) and are under the jurisdiction of the *Ombudsman*, even though they are not technically civil servants.<sup>15</sup> In Thailand, officials in *State Enterprises* are still monitored by the *National Anti-Corruption Commission* (NACC) due to their role in managing state resources and delivering public services.<sup>16</sup> In Malaysia, officers at entities such as *Petronas* or *Khazanah Nasional* are subject to the *Suruhanjaya Pencegahan Rasuah Malaysia* (SPRM), which has the authority to investigate

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<sup>14</sup> Dhimas Mohammad Kautsar and Dini Rosdini, "Mekanisme Pengenaan Sanksi Emiten, Perusahaan Publik, Dan Profesi Penunjang Pasar Modal Sebagai Implementasi Good Corporate Governance (Studi Kasus Pada Kantor OJK Pusat)," *Jurnal IAKP: Jurnal Inovasi Akuntansi Keuangan & Perpajakan* 6, no. 1 (2025): 64–72, <https://doi.org/10.35314/iakp.v6.i1.466>.

<sup>15</sup> Hans-Jürgen Burchardt and Johanna Leinius, *(Post-) Colonial Archipelagos: Comparing the Legacies of Spanish Colonialism in Cuba, Puerto Rico, and the Philippines* (University of Michigan Press, 2022), <https://doi.org/10.3998/mpub.11747103>.

<sup>16</sup> Jeerabhan Chanwichian et al., "'TEM-NACC' An Excellent Management Model of The National Anti-Corruption Commission of Thailand," *Rajapark Journal* 19, no. 62 (2025): 1–26, <https://so05.tci-thaijo.org/index.php/RJPJ/article/view/275640>.



corruption regardless of formal employment status.<sup>17</sup> In Singapore, the *Corrupt Practices Investigation Bureau (CPIB)* has broad jurisdiction over both public and private sector corruption, including state-owned or state-affiliated corporate actors.<sup>18</sup> These approaches emphasize that the determining factor for anti-corruption oversight is not legal classification, but public function and impact.

In light of authority theory and institutional effectiveness, there is a pressing need to reinterpret the relationship between legal status and the functional scope of public administration. In this regard, the authority held by BUMN directors should still be considered a form of public authority, as they manage state assets, regardless of legal separation. Therefore, the concept of “state administrator” must be reformulated to include not only formal status, but also the actor’s public functions and governance impact – aligning with the modern legal doctrine of *substance over form*. As a policy solution, both the government and *Dewan Perwakilan Rakyat (DPR)* should consider further regulatory reforms to affirm that KPK retains jurisdiction over BUMN officials suspected of committing corruption that significantly impacts public interest or involves state assets. An alternative path would be a *judicial review* of specific articles in *Undang-Undang Nomor 1 Tahun 2025* that eliminate state administrator status, arguing that such provisions contravene constitutional principles, the effectiveness of anti-corruption enforcement, and the protection of public interest. The *Mahkamah Konstitusi* (Constitutional Court) plays a crucial role in providing a progressive constitutional interpretation in response to this issue.

In conclusion, the legal reclassification of BUMN directors under *Undang-Undang Nomor 1 Tahun 2025* is not merely an administrative matter, but one that implicates theoretical and practical dimensions of constitutional and administrative law. From the lens of authority theory, this change risks narrowing the administrative reach of enforcement institutions such as KPK. From KPK’s functional perspective, the shift weakens anti-corruption efforts in key state sectors and introduces legal loopholes that may be exploited. Therefore, both legislative and judicial reviews are necessary to ensure that Indonesia’s anti-corruption agenda remains aligned with the broader goals of public sector governance reform.

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<sup>17</sup> Winda Lestari, Hafrida Hafrida, and Tri Imam Munandar, “Perbandingan Hukum Lembaga Pemberantasan Korupsi (KPK) Indonesia Dan Suruhanjaya Pencegahan Rasuah Malaysia (SPRM)” (Ilmu Hukum, 2021).

<sup>18</sup> Zeger Van der Wal, *Singapore's Corrupt Practices Investigations Bureau: Guardian of Public Integrity, Guardians of Public Value: How Public Organisations Become and Remain Institutions* (Springer International Publishing, 2021).

## **2. Legal and Practical Implications of Restricting KPK's Authority on the Effectiveness of Corruption Eradication within BUMN**

*Badan Usaha Milik Negara (BUMN)* plays a strategic role in national economic development and public service delivery.<sup>19</sup> As business entities that manage separated state assets, BUMN operations involve not only commercial interests but also public dimensions. However, this management remains vulnerable to corruption, collusion, and nepotism (*Korupsi, Kolusi, dan Nepotisme – KKN*). Therefore, the presence of law enforcement agencies such as the *Komisi Pemberantasan Korupsi (KPK)* becomes crucial. Unfortunately, following the enactment of *Undang-Undang Nomor 19 Tahun 2019 tentang Perubahan atas Undang-Undang KPK*, the scope of KPK's authority has been restricted, resulting in significant legal and practical implications, especially concerning corruption eradication efforts within BUMN.

Normatively, differing perspectives between *Undang-Undang BUMN* and *Undang-Undang KPK* have sparked debates over who qualifies as a state administrator (*penyelenggara negara*). Article 9G of *Undang-Undang BUMN* states that members of the board of directors, board of commissioners, and supervisory board of BUMN are not considered state administrators. This provision, in its literal interpretation, removes these officials from the legal subjects over whom KPK holds jurisdiction.

However, KPK refers to higher-level regulations within the legislative hierarchy, particularly *Undang-Undang Nomor 28 Tahun 1999 tentang Penyelenggaraan Negara yang Bersih dan Bebas dari KKN*. Article 2 of that law specifies that the definition of state officials includes other individuals holding strategic functions in relation to state governance, as stipulated by prevailing laws.<sup>20</sup> Based on this, KPK leadership and structural officials may be classified as state administrators, given their strategic anti-corruption functions, appointment through state mechanisms, and obligation to submit *Laporan Harta Kekayaan Penyelenggara Negara (LHKPN)*.

From a legal standpoint, even though *Undang-Undang BUMN* excludes BUMN officials from the category of state administrators, this does not nullify KPK's authority, which is founded on constitutional mandates and interpretations from the *Mahkamah Konstitusi* (Constitutional Court). This creates a dualism of norms and regulatory inconsistencies, potentially weakening corruption eradication efforts. A related legal issue arises around the interpretation of "state financial loss". Articles 4, 4A, and 48 of *Undang-Undang BUMN* affirm that although BUMN capital originates

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<sup>19</sup> Makruf Makruf and Murni Murni, "Analisis Efisiensi Dan Rasionalitas Dalam Pengelolaan Badan Usaha Milik Negara (BUMN) Berdasarkan Undang-Undang Nomor 19 Tahun 2003 (Prespektif Ekonomi Konvensional Dan Ekonomi Syariah)," *INICIO LEGIS* 6, no. 1 (2025): 13–22, <https://doi.org/10.21107/il.v6i1.27758>.

<sup>20</sup> Armando Stefanus Oroh, "Tinjauan Yuridis Terhadap Pelaporan Harta Kekayaan Oleh Penyelenggara Negara Menurut Undang-Undang Nomor 28 Tahun 1999," *LEX PRIVATUM* 14, no. 1 (2024): 1–12, <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/57265>.

from the national budget (*APBN*) and is reflected as state equity participation, profits or losses incurred by BUMN are considered corporate gains or losses, not directly state financial losses. This interpretation is further reinforced by Article 4B, which declares that BUMN losses do not constitute state financial losses. However, this view is not absolute. The *Mahkamah Konstitusi* has ruled that separated state assets, even when transferred as capital into BUMN, constitutionally remain part of state finances.<sup>21</sup> Thus, in practice, KPK retains the authority to investigate acts of corruption resulting in financial harm to BUMN, especially when legal violations or breaches of the *Business Judgment Rule* (*BJR*) are involved.

This point is critical because whether or not an act is deemed to harm state finances will directly affect the admissibility of KPK investigations. If BUMN losses are deemed unrelated to state losses, the conduct may no longer be prosecuted as a criminal act of corruption under *Undang-Undang Tindak Pidana Korupsi* (*UU Nomor 31 Tahun 1999 jo. UU Nomor 20 Tahun 2001*). This presents a risk of narrow legal interpretation that could be exploited by perpetrators to evade prosecution. This constitutes a serious legal implication, underscoring the urgent need for regulatory harmonization and reaffirmation of the principle that BUMN assets are part of state finances.

The revised *Undang-Undang KPK* (*UU Nomor 19 Tahun 2019*) imposes limitations on the agency's authority, particularly regarding its investigative scope. KPK is only authorized to handle corruption cases involving state administrators where the state financial loss exceeds IDR 1 billion. Consequently, in the context of BUMN officials no longer classified as state administrators under *Undang-Undang BUMN*, ambiguity arises in enforcement practice. This situation leads to operational challenges. KPK is at risk of losing jurisdiction over numerous corruption cases involving BUMN officials.<sup>22</sup> High-profile cases such as *Jiwasraya*, *Asabri*, and *Garuda Indonesia* demonstrate the susceptibility of BUMN to large-scale corruption. The result is a weakening of KPK's institutional effectiveness as the primary actor in public sector anti-corruption. The agency's limited authority forces it to rely on legal interpretation and cooperation with the Attorney General's Office and the National Police, which in practice may not function optimally.

This limitation not only undermines KPK's role but also creates the potential for overlapping jurisdiction with other law enforcement institutions. Within Indonesia's criminal justice system, there is no clear delineation of jurisdiction among enforcement bodies. While the Attorney

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<sup>21</sup> Tiyas Asri Putri and Tundjung Herning Sitabuana, "Pengawasan Pengelolaan Keuangan Negara Terhadap Badan Usaha Milik Negara (BUMN)," *Sibatik Journal: Jurnal Ilmiah Bidang Sosial, Ekonomi, Budaya, Teknologi, Dan Pendidikan* 1, no. 7 (2022): 1003–18, <https://doi.org/10.54443/sibatik.v1i7.118>.

<sup>22</sup> Haekal Amalin FP and Ermania Widjajanti, "Pembaharuan Hukum Pidana Anak Melalui Penerapan Restorative Justice Di Indonesia," *Locus Journal of Academic Literature Review* 4, no. 2 (2025): 69–79, <https://doi.org/10.56128/ljoalr.v4i2.430>.

General's Office and the Police are authorized to handle corruption cases, concerns about the quality, transparency, and accountability of their investigations persist. KPK's absence in certain cases can erode public trust. Moreover, there is a lack of adequate coordination and supervision mechanisms among KPK, the Attorney General's Office, and the Police for handling corruption cases in BUMN in an integrated manner. As stated by a former chair of *Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK)*, if BUMN officials are not categorized as state administrators, only the Police and the Attorney General's Office will have jurisdiction—potentially creating a “legal grey area,” particularly in cases involving jurisdictional disputes or neglect.

In responding to these limitations, a robust prevention mechanism must be developed. One strategy is to strengthen the implementation of *Good Corporate Governance (GCG)* principles within BUMN. Through GCG, corruption risks can be mitigated early on by enhancing internal control systems, transparency, and accountability.

KPK has demonstrated a strategic role in this preventive effort. Through dialogues with the *Kementerian BUMN* (Ministry of State-Owned Enterprises), KPK has attempted to integrate oversight from the planning stages to enable systemic monitoring of BUMN programs from upstream to downstream. This initiative reflects KPK's practical adaptation to formal constraints. Although its investigative powers are limited, KPK can still perform coordination, supervision, and preventive education functions. To address both the legal and practical implications of these limitations, regulatory harmonization across laws is required. The provision in *Undang-Undang BUMN* that excludes BUMN officials from the category of state administrators should be reconsidered to ensure it does not contradict the principles of *Undang-Undang KKN* and *Undang-Undang KPK*.

Furthermore, it is crucial to establish a clear institutional framework for inter-agency coordination. A transparent and accountable distribution of authority among enforcement agencies would significantly enhance the effectiveness of corruption eradication as a whole. A more structural solution would involve promoting amendments to *Undang-Undang KPK* and *Undang-Undang BUMN*, or at least issuing implementing regulations to bridge the current legal inconsistencies. This effort should involve the active participation of the legislative and executive branches, academia, and civil society.

The restriction of KPK's authority over BUMN officials presents complex legal implications and significant practical consequences. The inconsistency among legal norms, narrow interpretation of the state administrator definition, and jurisdictional limitations all contribute to the declining effectiveness of anti-corruption efforts within BUMN. Nonetheless, there remains room for mitigation through the strengthening of GCG, improved institutional synergy, and regulatory reform. KPK can still play a vital role through its preventive, supervisory, and public education functions. However, without comprehensive legal reform and strong political

commitment, efforts to eradicate corruption within BUMN will continue to face serious challenges.

## **Discussion**

### **1. Juridical Implications of the Redefined Legal Status of BUMN Officials**

The reclassification of State-Owned Enterprises (BUMN) directors and commissioners as non-state administrators under Law No. 1 of 2025 presents significant legal implications for the Corruption Eradication Commission (KPK). This legislative change contradicts prior legal frameworks, notably Law No. 28 of 1999, which previously defined BUMN officials as state administrators due to their control over public assets. This view was further affirmed by the Constitutional Court in Decision No. 25/PUU-XIV/2016, establishing BUMN officials' accountability under anti-corruption regulations. By removing BUMN officials from this category, the legal foundation for KPK's jurisdiction under Articles 6 and 11 of Law No. 19 of 2019 has been effectively eroded. From an administrative law standpoint, such authority must stem from attribution, delegation, or mandate. Without a normative attribution, KPK's ability to investigate corruption in BUMN is substantially weakened, potentially creating a legal vacuum that can be exploited. This legislative development raises serious concerns about institutional oversight, asset transparency, and legal consistency.

### **2. Authority Theory and Institutional Effectiveness**

Viewed through the lens of authority theory, institutional power is contingent upon a clear legal mandate. The KPK, as a statutory body, derives its authority through explicit legal attribution. With BUMN officials no longer categorized as state administrators, the statutory linkage underpinning KPK's jurisdiction is disrupted, even though those officials continue to functionally manage state resources.

This disconnect between formal status and functional responsibility highlights a broader theoretical issue – whether legality should be determined by form or substance. While the formal withdrawal of legal status constrains enforcement, the substantive role of BUMN officials in public finance management remains unchanged. This tension undermines both the effectiveness and legitimacy of KPK in its role as a specialized anti-corruption institution, especially in light of high-profile BUMN corruption cases. It further reveals the danger of a rigid legalistic approach that disregards practical governance realities.

### **3. Comparative Practices in State-Owned Enterprise Oversight**

Comparative legal analysis demonstrates that many jurisdictions retain anti-corruption oversight over state enterprise officials regardless of their formal legal status. In the Philippines, for instance, officials of Government-Owned and Controlled

Corporations (GOCCs) must file Statements of Assets, Liabilities, and Net Worth (SALN) and are subject to the jurisdiction of the Ombudsman. Thailand's National Anti-Corruption Commission (NACC) and Malaysia's MACC (SPRM) similarly monitor state enterprise officials due to their control over public resources. Singapore offers another compelling model: the Corrupt Practices Investigation Bureau (CPIB) holds authority over both public and private sector corruption, enabling comprehensive coverage of state-affiliated enterprises. These examples demonstrate that the critical criterion for corruption oversight is not merely the legal status of the actors, but their public function, fiscal control, and impact on governance. Such models provide valuable insight for reforming Indonesia's legal and institutional approach to BUMN oversight.

#### **4. Regulatory Harmonization and Policy Reform Strategies**

To resolve the current legal ambiguities and institutional limitations, regulatory harmonization is essential. Lawmakers must align the provisions of the BUMN Law, the KPK Law, and the Clean Governance Law to ensure consistency. Specifically, the clause in the BUMN Law excluding BUMN officials from the definition of state administrators should be revised. Alternatively, a judicial review before the Constitutional Court could challenge these provisions for undermining anti-corruption objectives and constitutional principles. Beyond legislative reforms, the KPK can enhance its preventive and supervisory roles. Strengthening Good Corporate Governance (GCG) practices in BUMN—through asset disclosure requirements, integrity compliance programs, and internal audits—could mitigate corruption risks. Furthermore, formal inter-agency coordination mechanisms among the KPK, the Attorney General's Office, and the National Police are urgently needed to prevent jurisdictional overlaps and institutional paralysis. In the long term, legal reforms must be supported by strong political will and civil society engagement to ensure the effectiveness of corruption eradication efforts within state-owned enterprises.

## **CONCLUSION**

The redefinition of the legal status of State-Owned Enterprise (BUMN) officials and the limitation of the Komisi Pemberantasan Korupsi (KPK)'s authority, as enacted through Law No. 1 of 2025 and Law No. 19 of 2019, has resulted in a substantial weakening of Indonesia's anti-corruption framework. This legal development has not only created a regulatory gap that obstructs the investigation and prosecution of corruption involving BUMN officials but has also exposed inconsistencies between overlapping legal regimes. Although these officials continue to manage state resources and perform public functions, their formal exclusion from the category of "state

administrators" erodes institutional oversight, diminishes public accountability, and opens room for systemic abuse of power.

To address these critical challenges, the harmonization of relevant statutory instruments is necessary through legislative amendments and legal reinterpretation. The definition of "state administrator" must be reconceptualized in a manner that emphasizes functional responsibility and the public nature of the role, rather than rigid legal formalism. Moreover, the KPK must continue to strengthen its preventive, supervisory, and educational functions in collaboration with other law enforcement agencies, particularly the Attorney General's Office and the National Police. The reinforcement of Good Corporate Governance (GCG) in BUMN institutions also remains essential for safeguarding public assets and ensuring institutional integrity.

Beyond these policy recommendations, this study offers a theoretical contribution to the development of Indonesian administrative and constitutional law. By applying the theory of authority to analyze the functional dimensions of public officials in quasi-private institutions, the article demonstrates the need for a substantive, rather than formalistic, approach to the legal status of public actors. Furthermore, the findings highlight the tension between legislative positivism and constitutional accountability, thus contributing to the broader discourse on the recalibration of state power and institutional legitimacy in transitional legal systems. In doing so, the study not only addresses immediate regulatory inconsistencies but also provides a normative framework for advancing democratic governance and rule of law in the context of public sector reform.

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