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The scope of state finances and their implications for combating corruption in Indonesia

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ABSTRACT

The law enforcement of corruption crimes within the scope of state-owned enterprises (SOEs) continues to spark debate. The epicenter of the debate has been the use of the Business Judgment Rule (BJR) doctrine by law enforcement officials, which is considered disproportionate. A fundamental issue that has been overlooked is the scope of state finances. Excessively broad state financial regulations create grey areas and tend to contribute to chaos in law enforcement. The cases of Richard Joost Lino in 2009 and Ira Puspadewi in 2025 seem to prove that the real problem is not solely related to the use of the Business Judgment Rule doctrine, but more fundamentally to the scope of state finances. The enactment of Law Number 1 of 2025 concerning the Third Amendment to the Law on State-Owned Enterprises, which separates state finances from state-owned enterprise finances, reopens this discourse. Using normative legal research, with a legislative, conceptual, and case approach, this article seeks to respond to several criticisms that have arisen, particularly the assumption that the Law on State-Owned Enterprises will become an instrument that exacerbates corruption within the scope of state-owned enterprises. The analysis shows that several provisions in the State-Owned Enterprises Law clarify the boundaries between state finances and state-owned enterprise finances. This legal instrument is not an obstacle; rather, it provides clear guidelines for law enforcement officials to combat corruption within state-owned enterprises.

Keywords: Scope, State Finances, Corruption Eradication

1. INTRODUCTION

One of the vital variables in the administration of government in a country to achieve its objectives is state finances (Republik Indonesia 2006). State finances are described as the lifeblood of development and have a major impact on economic sustainability (Arsyad 2013). The urgency of state finances requires the government to design regulations that provide a clear definition and scope for state finances. In its development, the government has produced several legal instruments that regulate state finances, such as Law Number 17 of 2003 concerning State Finances, Law Number 1 of 2004 concerning State Treasury, and Law Number 15 of 2004 concerning Examination of State Financial Management and Accountability. The enactment of these legal instruments has not been able to mediate the long-standing discourse in the area of state finances, particularly regarding scope.

This discourse raises the issue of the constitutionality of norms that are considered to be in conflict with the 1945 Constitution. Therefore, this issue has also resulted in several Constitutional Court decisions, including: Decision Number 77/PUU-IX/2011, Decision Number 48/PUU-XI/2013, Decision Number 62/PUU-XI/2013, Decision Number 59/PUU-XVI/2018, and Decision Number 26/PUU-XIX/2021. These decisions also demonstrate the evolution of the Constitutional Court's interpretation of the scope of state finances. Decision Number 77/PUU-IX/2011 reviewed Law Number 49 Prp of 1960 concerning the State Debt Committee. The argument for this petition was based on the premise that the assets of state-owned enterprises (SOEs) are separate from state assets, so that SOE debts are not state debts. Consequently, matters relating to SOE debts are not subject to the state receivables committee (Putri & Jauhari, 2016). The important implication of this decision is that "SOE assets that are not completely separate" are no longer subject to state finances, as formulated in Article 2 of the Law on State Finances (Dahoklory, 2020).

However, Constitutional Court decisions related to the review of laws concerning state finances, such as Decision Number PUU-XI/2013 to Decision Number 26/PUU-XIX/2021, have expanded the scope of state finances. Specifically, regarding state assets, the Court has confirmed that the assets of state-owned enterprises, whether separate or not, are part of the state's finances. In principle, these decisions are in line with the scope of state finances in Article 2 of Law Number 17 of 2003 on State Finances. This broadly formulated scope of state finances does not necessarily resolve the issue; in fact, divisions, both academically and in law enforcement practice, continue to occur.

On the one hand, there are continued calls for the eradication of corruption within state-owned enterprises (SOEs). This is reasonable considering the findings of the Indonesia Corruption Watch (ICW), which show that between 2016 and 2021, there were 119 cases of corruption involving SOEs, with 340 suspects. The distribution of cases shows that the highest number occurred in 2020, with 27 cases and total state financial losses reaching 47.9 trillion (Primayoha, 2022). This fact also confirms that SOEs are one of the places prone to corruption. However, the use of corruption articles for directors and policymakers in SOEs also has the potential to cause decision paralysis. This affects flexibility, especially in terms of innovation and business expansion of SOEs, as a business instrument based on the principle of profit orientation. Moreover, considering the problems of law enforcement carried out on several directors of PT Pertamina, Karen Galaila Agustiawan, and directors of PT Nusantara Merpati Airline, Hotasi Nababan (Purba, 2019).

In a legal context, the epicenter of the debate in the two recent cases relates to the Business Judgment Rule (BJR) doctrine, but this cannot be separated from the regulation of the scope of state finances. The spirit of enforcing criminal law on corruption, which is oriented towards combating state financial losses, ultimately conflicts with the spirit of innovation and business expansion of state-owned enterprises, which not only adhere to the principle of profit orientation but also consider the risk of loss as a normal part of business. This raises a discourse mainly related to the scope of state finance. Does the broad landscape of state finances influence the enforcement of criminal corruption laws, or should the scope of state finances be formulated broadly to include SOE financing? The Law on SOEs has simply divided SOEs into Public Companies (PERUM) and Limited Liability Companies (Persero). A review of the definitions of these two types of SOEs provides a limitation in this case, namely that the relevance of

the debate on the scope of state finances only refers to SOEs in the form of Perseros. This is because Public Companies are, by definition, wholly owned by the state (Republik Indonesia, 2025).

A new chapter in the discourse on state finances emerged with the passing of Law No. 1 of 2025 concerning the third amendment to Law No. 19 of 2003 on State-Owned Enterprises. An interesting provision of the Law is the formulation of Article 4B, which states that "Profits or losses incurred by SOEs are profits or losses of SOEs." This formulation seems to place SOEs and their finances in line with the general concept of business entities that separate shareholder finances from the company finances. This affirmation can be introduced from the explanation of the article in question.

"The capital and assets of state-owned enterprises belong to the state-owned enterprises, and any profits or losses incurred by state-owned enterprises are not considered profits or losses of the state. Profits or losses of state-owned enterprises include, but are not limited to, profits or losses arising from the management of some or all of the assets of state-owned enterprises in the investment and/or operational activities of the state-owned enterprises concerned".

Article 4B and its explanation essentially provide different provisions compared to the law on state finances and several previous Constitutional Court rulings. This article seeks to position SOEs as purely business entities in which the state acts only as a shareholder. This is in line with the consideration in letter c of the SOE Law, which states that "in order to optimize the management of state-owned enterprises, it is necessary to separate the functions of regulation, supervision, and operations." An important derivative of this concept is reflected in the principle of independence, as stipulated in Article 3, letter d, which is interpreted as:

"The principle of independence is the principle that underlies the management of state-owned enterprises by maintaining and promoting professionalism without conflicts of interest and influence or pressure from any party that is not in accordance with the regulations and principles of sound corporate governance."

However, this formulation also reinforces the dichotomy of previous debates. The formulation of Article 4B is considered an instrument that exacerbates SOEs corruption. In addition, the enactment of Law No. 1 of 2025 marks a transformation in the scope of state assets and has an impact on accountability for SOE losses (Akmalia, 2025). However, although the SOE Law marks a shift in the state financial paradigm, losses incurred by SOEs remain state financial losses. This is because the state financial law, which covers separate state assets, is still in effect (Albab, 2025). In other words, the losses incurred by SOEs remain subject to criminal prosecution for corruption.

A concrete step from this discourse is the submission of a petition for review to the Constitutional Court covering several articles, including Article 4B, Article 9B, and Article 87 (5) of Law Number 1 of 2025. This petition is based on the argument that corruption in state-owned enterprises significantly impacts people's lives. The articles in the State-Owned Enterprises Law are considered to weaken law enforcement efforts against corruption in state-owned enterprises (Mahkamah Konstitusi 2025). In response, the government amended the SOE Law again, which was then passed as Law No. 16 of 2025 concerning the Fourth Amendment to Law No. 19 of 2003 concerning State-Owned Enterprises. However, the wording of Article 4B and its explanation remain unchanged. In other words, the losses and profits are not related to the state's financial losses and profits.

This short article analyzes the discourse on the scope of state finances and its implications for eradicating corruption in Indonesia. Changes in regulations related to state finances have always sparked discourse. In essence, this article will be constructed from the main question: "Do changes to the scope of state finances (most recently with the State-Owned Enterprises Law) have an effect on the eradication of corruption in Indonesia?" This article argues that the provisions of the latest State-Owned Enterprises Law provide clarity on the scope of state finances, especially those related to business activities in state-owned enterprises. The law in question can reestablish the essence of SOE finances as an independent business entity that follows the principles of business entities in general. However, if there are irregularities in this management, especially if they exceed the limits formulated as Business Judgment Rules (BJR), law enforcement officials can still prosecute directors under corruption articles.

To achieve a structured discussion in terms of systematics and comprehensiveness in terms of substance, this article is organized as follows: After the introduction and research methods, the discussion

section of this article will begin with a sub-discussion entitled "Theoretical Discourse on the Scope of State Finances." This sub-section elaborates on a synthesis of experts' views regarding the scope of state finances and their impact. The second sub-discussion will discuss "The Implications of the Scope of State Finances in Combating Corruption." This subsection analyzes the reality of law enforcement in several cases involving directors and actors related to state-owned enterprises. This sub-discussion will also answer the question, "Does the formulation in the latest SOE Law affect the working landscape and scope of corruption articles and the enforcement of corruption crimes in general?" The final section presents the article is a conclusion containing conclusions and recommendations.

2. METHOD

This article was reviewed using normative legal research, which is legal research that examines applicable positive legal norms. The approaches used are the Statute, Conceptual, and Case Approaches. The statute approach uses legislation and regulations (Marzuki 2016) related to state finance. The Conceptual Approach (Marzuki 2016) was used to examine concepts related to state finances, Business Judgment Rules (BJR), and related concepts. Meanwhile, the Case Approach is used to examine cases related to the topic (Amiruddin and Asikin 2014), in this case, corruption, particularly in crimes that cause losses to state finances. These approaches are supported by primary legal materials focused on several laws, including Law Number 17 of 2003 concerning State Finances, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, and Law Number 1 of 2025 in conjunction with Law Number 16 of 2025 concerning the Third and Fourth Amendments to the Law on State-Owned Enterprises (BUMN). This study also uses secondary legal materials in the form of books, journal articles, and scientific papers relevant to the subject matter. These legal materials will then be reviewed, elaborated on, and presented systematically.

3. RESULT AND DISCUSSION

3.1. Theoretical Discourse on the Scope of State Finances

Historically, the discourse on state finances in academic circles began due to the uniform interpretation of the phrase "state finances" contained in Article 23 paragraph (5) of the 1945 Constitution before its amendment, which is now identical to Article 23 E paragraphs (1) and (2). According to Harun Alrasyid, state finances, as formulated in Article 23 paragraph (5), must be interpreted restrictively in the implementation of the State Budget (APBN) that has been approved by the DPR. This restrictive meaning is a logical consequence of his disagreement with the formulation of Law Number 5 of 1973 concerning the Audit Board, which broadly defines the scope of state finances to include not only the APBN but also the APBD, the budgets of state-owned companies, and others (Alrasyid 1995).

In contrast to this is the opinion of A. Hamid S. Attamimi, who agrees with the explanation in Law No. 5 of 1973, whereby state finances are not limited to the state budget alone. According to Attamimi, the division of the state budget, regional budget, and regionally owned company budgets is a consequence of the existence of autonomous regions and state/regional-owned companies within a unitary state (Attamimi 1981). These two experts have strong arguments regarding the scope of state finances. Arifin P. Soeria Atmadja takes a more moderate stance by grouping Alrasyid's argument into the group that interprets state finances narrowly, while Attamimi is grouped into the group that interprets state finances broadly (Atmadja 1994).

The debate continues, even though the scope of state finances has been standardized in Law No. 17 of 2003 on State Finances. Specifically, regarding the scope of state finances, this is regulated in detail in Article 2, which states that the scope of state finances covers nine (9) areas. The regulation of the scope of state finances is considered important as a form of legal certainty and a guideline for parties involved in the management of state finances (Saidi, 2014). However, the formulation of state finances as regulated is considered to have several problematic aspects by some experts. Arifin P. Soeria Atmadja, for example, describes Article 2 letter i as a "disastrous" article which he considers to be an instrument that could

bankrupt the state (Atmadja 2009). According to him, the formulation is based on the ambition to conduct audits of public and private finances.

This formulation then draws the state as a party that is also responsible for the wealth of private parties that obtain government facilities. In the worst-case scenario, if a company becomes insolvent and bankrupt, the state also bears the burden (Atmadja 2009). In addition, another article that is being questioned is Article 2 letter g, which is not in line with the theory of transformation, which essentially conceptualizes that state finances that have been separated and converted into shares also undergo a transition from public finances to private finances in terms of their legal status (Republik Indonesia 2003).

In addition to the theory of transformation, this argument is consistent with the status of legal entities as legal subjects with their own rights and obligations. Therefore, the state, as one of the shareholders in this case, has the same position as other shareholders, the only difference being the percentage of share ownership. This makes the state subject to Law Number 40 of 2007 concerning Limited Liability Companies, which falls under the domain of civil law (Atmadja 2009).

Based on this, it is reasonable for Simatupang to say that Indonesia's state financial policy does not provide for the ideal differentiation of legal status and position. This distinction is intended to facilitate examination, supervision, and accountability (Simatupang, 2005). He considers Law No. 17 of 2003 to have caused chaos, which has created a complicated situation, especially in determining the status of money in the event of legal problems.

However, like A. Hamid S. Attamimi, there are now experts who agree with the formulation of state finances and their scope, one of whom is W. Riawan Tjandra. According to him, the broad definition of state finances is an effort to protect state assets, which originate from public funds. In addition, the broad formulation of the scope of state finances is intended to prevent regulatory loopholes that could lead to significant losses in the state financial management. Furthermore, the formulation of state finances and their scope in Law Number 17 of 2003 is a derivative of the welfare state theory, which is explicitly adopted in the 1945 Constitution (Tjandra, 2013).

The discourse on state finances has indeed been going on for a long time, and it must be acknowledged that there is still no consensus on the interpretation of state financial issues and their scope (Nugraha, 1992). We must address this issue very clearly because it is not only a matter of legal certainty that must be sought, but it seems that a long and endless discourse will be an urgent academic responsibility. Moreover, this discourse has created serious ambiguity in the implementation of the law, and judicial institutions have created a dichotomy between those who agree and those who disagree in assessing this issue.

If we refer to the arguments put forward by W. Tjandra and Attamimi, who clearly agree with the expansion of the scope of state finances, seem to have very partial arguments that are inconsistent with existing legal principles because they are based solely on actions to save state assets. In the context of Article 2 letters g and i, for example, this article agrees with the concept of transformation theory as proposed by Arifin. Soeria Atmadja, at least on several arguments, namely: (a) When the state invests capital in a company, it then becomes a shareholder just like any other shareholder, the only difference being the percentage of shares held; (b) The consequence of point a is that in terms of liability, when a company becomes insolvent or bankrupt, the state's liability as a shareholder is limited liability; (c) Expanding the scope of state finances actually has the potential to cause greater financial losses to the state. This is because a state's financial status generally does not affect its rights. As a shareholder in a company, the state only receives dividends and taxes from the company, regardless of whether the company is part of the state's finances. However, when losses occur, the state's liability increases.

This is in line with an interesting allegory from Indradewa, who said, "If a father gives capital to his adult child to start a business, legally the money belongs to the child and the profits and losses are the child's own responsibility"(Indradewa, 1981). This allegory is compatible with the principles adopted by the company. The broad formulation of the scope of state finances in Article 2 of Law Number 17 of 2003 has caused problems not only at the normative level but also in the practical world of law. Normatively, there is no similarity in the concept of state finances and its scope between several laws, such as the Law on State-Owned Enterprises, the Law on State Finances, and the Law on Eradicating

Corruption (TIPIKOR). This contributes to law enforcement practices, where there is a tendency for excessive intervention using legal instruments to eradicate corruption against decisions in the business sphere. The case of the defendant Richard Joost Lino (RJ Lino), who was the president director of PT. Pelindo II from 2009 to 2015, is an example of this. More recently, a case with a similar pattern and character is the alleged corruption case involving the former director of PT. ASDP, Ira Puspadewi. An overview and analysis of these two cases are described in the following section.

3.2 Implications of the State Financial Scope in Eradicating Corruption Crimes

Corruption is closely related to state finances. This is confirmed by the records of the Institute for Judicial Independence Studies and Advocacy (LeIP) in 2013, which state that Articles 2 and 3 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 are the most important articles in the eradication of corruption (Yuntho et al., 2014). These two articles are related to state financial losses. These articles can be said to be characteristic of Indonesia, as their provisions have existed since the instruments for combating corruption were still using various military regulations. Furthermore, the United Nations Convention against Corruption (UNCAC), an international agreement on combating corruption, does not explicitly state that corruption is related to financial losses to the state. Article 3, paragraph (2) of the UNCAC, under the heading Scope of Application, states: "For the purposes of implementing this Convention, it shall not be necessary, except as otherwise stated herein, for the offenses set forth in it to result in damage or harm to state property" (United Nations Office on Drugs and Crime. 2004). This formulation also confirms the UNCAC's view that corruption is not necessarily synonymous with causing financial losses to the state.

Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on Eradication of Corruption is also one of the laws that regulates the scope of state finances. This is explained in the General Explanation, which states that state finances include the following:

"All state assets in any form, whether separate or not, including all parts of state assets and all rights and obligations arising from: (a) Being under the control, management, and responsibility of state officials at both the central and regional levels; (b) Being under the control, management, and responsibility of State-Owned Enterprises/Regional-Owned Enterprises, Foundations, Legal Entities and Companies that include state capital, or companies that include third-party capital based on agreements with the state".

Upon closer examination, the formulation of state finances is as broad as that of Law No. 17 of 2003. The broad formulation and ongoing discourse on state finances have led to disparities in perception between prosecutors and judges, as well as among judges themselves, both regarding the amount of state financial losses and whether the acts themselves constitute state finances or not (Yuntho et al., 2014). This has had an impact on law enforcement practices, as reflected in the case of corruption involving the defendant Richard Joost Lino or RJ Lino. RJ Lino was the President Director of PT Pelindo II from 2009 to 2015. He was charged with corruption related to the procurement of 10 (ten) Quay Container Cranes at PT Pelindo II in 2010. After a lengthy legal process, Lino was found guilty of corruption under Article 3 of the Corruption Eradication Law and sentenced to 4 years in prison and a fine of Rp. 500 million, with a subsidiary penalty of 6 months' imprisonment (Guritno, 2021).

However, this case was not decided unanimously, and the analysis of the verdict can begin with the dissenting opinion of the presiding judge. Presiding Judge Rosmania stated that the KPK's Corruption Detection and Analysis Accounting Forensics Unit did not carefully calculate the financial losses to the state and violated the principle of calculating financial losses to the state, namely that compensation can only be awarded if there has been a violation. In addition, Rosmania also highlighted the issue of state financial losses. According to her, the procurement of the QCC twin lift actually benefited both service users and Pelindo II itself. Although there were irregularities in the procurement of the three QCC twin lifts, according to her, the defendant's objective was to obtain or pursue profits for PT. Pelindo II in accordance with the company's aims and objectives (Yozami, 2021).

Judge Rosmania's argument is closely related to the discourse on state finances, as outlined in the first discussion. The immediate impact that we can observe is a difference in the perception of the amount of state financial loss. Furthermore, this ruling can be considered a direct result of the broad scope of state finances as formulated in the Anti-Corruption Law. This expansion of scope has positioned both the State

Finance Law and the Anti-Corruption Law as comprehensive laws that erase the line between the government judgment rule and the business judgment rule paradigms (Garner, 2004).

As stated by Arifin P. Soeria Atmadja and Dian Puji N. Simatupang, the tendency of state financial policy, particularly regarding the scope of state finances, does not clearly separate the public and private spheres, and this confusion has an impact on the implementation of the law. In this case, the presiding judge who expressed a dissenting opinion said that this was not a loss to the state finances but rather a business matter that was not related to the use of criminal instruments as a means of resolving it. The business judgment rule paradigm should be the main filter used (Dahoklory, 2020).

This was also the case with the defendants, PT ASDP President Director Ira Puspadewi and two of her colleagues. The three defendants were suspected of committing corruption in the business cooperation and acquisition of PT Jembatan Nusantara (JN) by PT ASDP Indonesia Ferry Persero during the period of 2019-2022. According to the KPK's records, these actions caused state financial losses amounting to 1.27 trillion. The legal process began in 2024 and the trial commenced on July 10, 2025, with case number 68/Pid.Sus-TPK/PN.Jkt.Pst. Ira and her two colleagues were charged under Article 2 paragraph (1) in conjunction with Article 18 of the Corruption Eradication Law in conjunction with Article 55 paragraph (1) of the Criminal Code. On November 20, 2025, the Panel of Judges at the Central Jakarta District Court sentenced Ira Puspadewi to 4 years and 6 months in prison and a fine of Rp. 500 million, or 3 months' imprisonment (CNN Indonesia, 2025).

As in the case of RJ Lino, the case of Ira Puspadewi was also not decided unanimously. The dissenting opinion delivered by Chief Justice Sunoto even argued that the defendant should have been acquitted (cleared of all charges). Judge Sunoto argued that the defendant's decision to acquire PT Jembatan Nusantara (JN) was a business decision that was in accordance with the business judgment rule (BJR) doctrine. In his view, the acquisition was carried out in good faith, as evidenced by comprehensive due diligence worth 11.2 billion rupiah involving seven professional consultants. Furthermore, this acquisition was carried out with caution and had been approved by the commissioners, the General Meeting of Shareholders, and the Minister of State-Owned Enterprises. The acquisition even yielded positive results for the business, contributing Rp. 2.1 trillion in revenue to the company and increasing its market share by 45.65% (Dandapala, 2025).

If we compare the cases of RJ Lino and Ira Pupspadewi, they have almost identical characteristics. Both cases also show that there was no unanimous decision among the panel of judges in ruling on them. Most importantly, the substance of the judges' dissenting opinions is also almost the same, in that the cases are considered to be purely business decisions. The arguments and opinions of legal experts focused on the improper application of the law and the disproportionate use of the business judgment rule doctrine, which was even completely disregarded. However, what was overlooked was the fact that in the period between the RJ Lino case in 2015 and the Ira Puspadewi case in 2025, there was a massive systematic review and push for the use of the business judgment rule principle. Moreover, in principle, the business judgment rule itself is reflected in Article 97 paragraph (5) of Law Number 40 of 2007 concerning Limited Liability Companies (PT Law). However, the practice of law enforcement with this kind of character continues to be repeated.

It is normal to argue that the real problem is not limited to the existence or absence of provisions on the business judgment rule, but rather the perspective and views of law enforcement officials. If we broaden the scope of analysis, the chaos in law enforcement that intersects with aspects of state-owned enterprises can be caused by the scope of state finances. The arguments of Arifin P Soeria Atmadja and Dian Puji N. Simatupang still seem relevant to the current factual conditions. Therefore, reflecting on existing cases, it is true that law enforcement officials have not been able to fully and proportionally apply the business judgment rule doctrine in the enforcement of criminal acts of corruption. However, the broad scope of state finances, which creates a blurred line between the business domain of SOEs and criminal acts of corruption, cannot be ignored as one of the main factors in various law enforcement issues.

The enactment of Law No. 1 of 2025 on State-Owned Enterprises, with one of its substantive provisions distinguishing between state finances and state-owned enterprise finances, should be viewed as a solution that provides clear boundaries between state finances and state-owned enterprise finances.

These clear boundaries can prevent the occurrence of arbitrary law enforcement, especially the use of corruption articles against policies within the scope of SOEs. However, the provisions of the SOE Law have been met with resistance, mostly from parties who had previously criticized law enforcement within the scope of SOEs (Indonesian Corruption Watch, 2025). ICW, for example, believes that the SOE Law will worsen corruption within SOEs. Previously, ICW also conducted research related to the Business Judgment Rule doctrine in corruption cases. One of the conclusions of this research stated that:
"Although there are conflicting norms in viewing state assets that are separated in the share ownership structure of state-owned enterprises, not all losses incurred by state-owned enterprises can be classified as state financial losses within the framework of criminal acts of corruption. This is because losses incurred by state-owned enterprises may also occur due to business risks arising from decisions made by the board of directors in running the company"(Ananda & Ramadhan 2023).

If we examine this conclusion closely, one of the main problems in enforcing criminal laws on corruption within the scope of state-owned enterprises is caused by the fact that, prior to the enactment of the State-Owned Enterprises Law, the scope of state finances was not clearly defined. This led to many business decisions that were actually within the scope of corporate administration being subject to criminal corruption charges. It is in this section that this article argues that some critics of the formulation of the SOE Law are actually inconsistent in their criticism. In addition, criticism of the SOE Law has given rise to a narrow view of the application of the Business Judgment Rule, without considering the scope of state finances.

On the other hand, Transparency International Indonesia (TII), like ICW, also has strong concerns that the SOE Law will become an instrument that exacerbates corruption in Indonesia, particularly within the scope of SOEs(Transparency International Indonesia, 2025). TII highlights several articles, including Article 4B, which covers the scope of state finances (profits and losses), and Article 9G, which relates to the addressees of the norm. Other studies even mention that Article 9G of the SOE Law is an instrument that grants immunity to directors and commissioners who commit criminal acts of corruption(Pradipta & Widjajanti, 2025). This article argues that the SOE Law should be appreciated because it provides a restrictive interpretation of the scope of state finances. This means that this instrument indirectly clarifies the boundaries between state finances and SOE finances. In other words, theoretically, the formulation of Article 4B is in line with the previous opinions of Alrasyid and Simatupang. Regarding concerns about obstacles or even impunity in the enforcement of criminal acts of corruption occurring in SOEs, this article provides several arguments.

First, the substance of Article 4B and its Explanation should not hinder the enforcement of criminal law on corruption within the scope of state-owned enterprises. One factor is the wording of Article 14 of Law Number 31 of 1999, which states that "any person who violates a provision of law that explicitly states that violation of that provision constitutes a criminal act of corruption shall be subject to the provisions of this law." In criminal law, this provision is also known as blanco straffbepalingen, which literally means blank provisions. The formulation of this article allows the provisions of the Anti-Corruption Law to also be used in various acts that are considered criminal acts of corruption even though they are regulated outside the Anti-Corruption Law. Ideally, the use of this article requires that the legal instrument must expressly state the phrase "criminal act of corruption" or at least "corruption".

However, in reality, articles on criminal acts of corruption (mostly Article 2 paragraph (1) and Article 3) tend to be used for all acts outside the scope of the criminal acts of corruption law, even though the law does not mention any connection with criminal acts of corruption. This practice raises problems, such as the use of corruption articles against banking crimes at state-owned banks, which tends to create a gray area and legal uncertainty(Ifrani, 2011). Without intending to justify this, if we reflect on this practice, we may not need to worry about the formulation in Article 4B of the SOE Law. This is also confirmed by the Corruption Eradication Commission (KPK) itself, which states that the enactment of the SOE Law, inter alia Article 4B, does not affect the KPK's authority in eradicating corruption within SOEs (KPK, 2025).

Second, regarding the formulation of Article 9G, which states that "Members of the Board of Directors, Board of Commissioners, and Supervisory Board of SOEs are not state administrators." This

formulation has been removed by Law Number 16 of 2025 concerning the Fourth Amendment to the SOE Law. However, this paper argues that even if this article had not been repealed, the enforcement of criminal law on corruption within the scope of SOEs could still have been implemented. This is because since the enactment of Law Number 1 of 2023 concerning the Criminal Code (KUHP), several articles in the TIPKOR Law that were categorized as core crime articles were finally included in the KUHP, including articles related to crimes causing financial loss to the state (Article 2 paragraph (1) and Article 3). Thus, these provisions should follow the general provisions of Book 1 of the KUHP.

In Book 1 of the Criminal Code, specifically in Chapter V on the Definition of Terms, one of the addressees of the norm is explained, namely, officials. Article 154 states:
"An official is any Indonesian citizen who has met the specified requirements, has been appointed by an authorized official and entrusted with state duties, or has been entrusted with other duties by the state, and is remunerated in accordance with the provisions of laws and regulations, namely: ... letter f: persons who receive salaries or wages from corporations whose capital is wholly or largely owned by the state or regional government; or".

Based on this formulation, directors and commissioners, especially in state-owned enterprises (SOEs) of the Persero type, can be absorbed by the definition of officials. Thus, directors, commissioners, and SOE employees should no longer be a substantial issue for discussion. This explanation shows that the concerns raised regarding several provisions in the SOE Law are refutable.

In conclusion, this article seeks to reaffirm the initial proposition that the amendment to the SOE Law has theoretically eliminated the gray area in the scope of state finances. In the context of law enforcement against criminal acts of corruption, this gray area related to the scope of state finances was not previously seen as contributing to chaos in law enforcement. The SOE Law should be viewed as an instrument that provides clear boundaries regarding the scope of state finances. This legal instrument does not hinder the enforcement of criminal acts of corruption, but rather provides clear boundaries for law enforcement officials in applying the articles on corruption, especially those related to the scope of SOE activities.

4. CONCLUSION

The discourse on the scope of state finances in its development has not only had an impact on normative issues, but has also contributed to chaos in law enforcement, particularly in relation to criminal acts of corruption. This chaos began with the case of defendant Richard Joost Lino in 2015. The general view that emerged in this case was related to the use of corruption articles in existing policies within the business sphere. The epicenter of the discourse led to the proportionality of the use of the business judgment rule (BJR) doctrine. A case with similar characteristics was repeated in 2025 with the defendant Ira Puspadewi. This paper argues that the formulation of the scope of state finances plays a large part in these cases. The enactment of Law Number 1 of 2005 concerning the Third Amendment to the Law on State-Owned Enterprises provides clarity on the scope of state finances. However, the provisions in this legal instrument do not preclude the enforcement of criminal corruption laws within the scope of state-owned enterprises. On the contrary, these provisions provide a new paradigm and clarity for law enforcement officials in applying corruption articles to activities within the scope of SOE business activities.

Ethical Approval
Not Applicable

Informed Consent Statement
Not Applicable

Author's Contributions
A contributed as the main author by conceptualizing the research problem, formulating the research objectives, and developing the normative legal research design. He conducted the legislative, conceptual,

and case-based analysis, examined the development of the Business Judgment Rule doctrine and the scope of state finances, and drafted the core sections of the manuscript, including the analysis and discussion. YR contributed to strengthening the theoretical and legal framework, particularly in relation to corruption law, state finance regulation, and state-owned enterprises governance. She provided critical review of relevant cases, assisted in refining legal arguments, and contributed to revising the manuscript to improve clarity, coherence, and consistency with academic and legal writing standards.

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