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Legal Politics for Eradicating Criminal Acts of Corruption Related to Roles and Responsibilities of State-Owned Bank Board of Directors

Ivon Septiandri[1], Gunardi Lie[2]
Tarumanagara University

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Abstract
Legal policy determines the form, direction, and substance of the laws to be enacted. The process of lawmaking is always influenced by political movements, and the political role of political institutions is crucial. The rampant corruption in Indonesia makes the formation of laws related to corruption eradication very dynamic. Corruption crimes in Indonesia require more in-depth study in the context of the process of forming legal policies for their eradication, particularly in the realm of state-owned banks, regarding clear boundaries to minimize criminalization while maintaining justice. Article 9G of Law Number 1 of 2025, concerning the Third Amendment to Law Number 19 of 2003 states that members of the Board of Directors of BUMN are not state administrators, this serves to make the role of the board of directors more professional, however, Law Number 16 of 2025 concerning the Fourth Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises actually eliminates Article 9G which existed in the previous law. The article does not directly address the activities of Corruption Crimes, but by eliminating the inclusion of the clause not being a state administrator has the potential for criminalization because the boundary between pure state losses and business losses is very thin, so it is necessary to have clear boundaries regarding the responsibility of the Directors of State-Owned Banks. Losses that occur in State-Owned Banks are not immediately considered state losses, if they meet certain limits called the Business Judgment Rule (BJR). Directors who cannot be held accountable if there is good faith, reasonable prudence (Due Care) based on risk management and Good Corporate Governance (GCG), and there is no Conflict of Interest (No Conflict of Interest).

Corresponding Author:
Ivon Septiandri
Tarumanagara University
Email: ivon.208251011@stu.untar.ac.id

1. INTRODUCTION

Laws (UU) regulate all forms of actions and behavior of every individual to ensure they remain within the bounds of law and in accordance with desired standards. Laws are enacted by authorized institutions in writing and are adhered to as guidelines for every citizen. Legislation is formalized into UU, which becomes positive law and has gone through the formal formation procedures of the House of Representatives (DPR) and been approved by the President. Legislation viewed from the process of its formation requires a touch of Legal Politics that exist and apply in Indonesia, has been studied in depth by policy makers based on the needs and aspirations of a just society. Politics is part of law, and law is part of politics; these two things are interdependent on each other, never separate, and need each other, and go hand in hand and are always in a straight line according to the aspirations of society. Legal politics determines the form, direction, and

substance of the law that will be made to be established. The process of creating law is always influenced by political movements, and the political role of political institutions is very decisive. (Sari, A.K, 2023) Padma Wahyono said that legal politics is the basis of policy to create the substance of the law that will be implemented. Viewed from another side, legal politics is an understanding of values, selection, development, and formation. (Padmo Wayono, 1986) Legal politics is a series of activities and activities that determine the limits to supervise, and update laws that aim to achieve state aspirations.

Legal politics determines the boundaries to achieve the direction of legal development in Indonesia, which, if studied and made with strong values, will protect the law for society and the state. (Manan, H.A, 2018) Legal politics in Indonesia highly uphold social justice and play an important role in participating in national development, as well as being a link between the ideals and aspirations of the state to create the necessary laws and regulations, and can meet the aspirations of the dynamic society and state. Basically, the purpose of the law is to create order in social life and to maintain balance in the state. Every social relationship must comply with the legal regulations that are alive and applicable in positive law. Law is crucial in its function as a regulator and balance between human rights and obligations to prevent friction and create justice in living together (Munawar et.al, 2021). Therefore, based on this explanation, the legal policy created is not only related to a series of legal formation activities in accordance with statutory regulations, but also must provide mutual aspirations and is greatly needed by society, while always paying attention to regulations that do not yet exist (legal vacuum) and regulations that overlap (legal conflicts) that arise, so that more in-depth study is needed. The rampant corruption in Indonesia makes the formation of laws related to corruption eradication very dynamic. Criminal Acts of Corruption (Tipikor) in Indonesia require more in-depth study in the framework of the process of forming a legal policy for its eradication. Tipikor is always based on losses to state finances due to actions that exceed authority and benefit oneself or others. When related to the Types of Tipikor in the scope of Banks owned by State-Owned Enterprises (BUMN), a more in-depth study is needed regarding the limitations of the criteria for the Tipikor that occur. The purpose of establishing a state-owned bank is basically to foster the spirit of development, but in practice, businesses run by state-owned banks can still be exposed to risks that may lead to losses.

The numerous regulations that strictly supervise the business operations and business strategies of State-Owned Banks do not always ensure that State-Owned Banks operate within the established corridors, often resulting in problems that lead to losses. Losses incurred by State-Owned Banks are considered State losses, as State-Owned Banks are State-Owned Companies whose capital is derived from State finances. Therefore, based on this classification, State-Owned Banks are State-Owned Companies that receive capital from State-Owned Finances, which are subject to and responsible for the relevant laws. State Finance itself is State wealth belonging to the central and regional governments, managed either by the government itself or by other parties or separated into state or regional companies. Therefore, all government and non-government institutions that use or manage State wealth sources are included in the category of having used State finances. Governance of State wealth by State-Owned Banks needs to be carried out properly and carefully. If there are unlawful acts, whether intentional or unintentional, that cause losses, then they can be categorized as acts that cause State losses. State losses can occur in both central and regional areas, resulting in a lack of money and other valuables due to unlawful acts. When linked and connected to the corruption provisions of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, essentially, anyone who enriches themselves, another person, or a corporation and causes state losses is subject to criminal penalties. Likewise, those who abuse their position of authority to unlawfully

benefit themselves, another person, or a corporation and cause state losses are subject to criminal penalties.

In relation to the explanation of the Article, the meaning of every person here is a person who exceeds his authority, exploits the position that has been entrusted to him, and harms state finances. Anyone related to state finances, whoever the perpetrator is who manages the state finances, is a subject who can be held criminally accountable if proven to have committed an unlawful act that results in state losses. If associated or connected with state administrators, then all state administrators who have crucial roles are officials authorized to carry out and implement state financial governance. The board of directors, as state administrators for state-owned banks, has the potential to be exposed to articles in the corruption law if they cause losses to state finances. State-owned company directors have the responsibility for managing state-owned companies. The explanation of Law Number 31 of 1999 concerning the Eradication of Corruption confirms that any act that harms state finances is punishable. The politics of legal formation to accommodate the needs related to the limits of corruption in state-owned companies or state-owned banks in particular, is very dynamic and rapidly changing. To date, there have been 4 (four) changes. Regarding the Board of Directors of State-Owned Banks as state administrators, it is interpreted as if it literally conveys that the Board of Directors of State-Owned Enterprises is not a state administrator; however, the latest Law Number 16 of 2025 concerning the Fourth Amendment to Law Number 19 of 2003 concerning State-Owned Enterprises actually eliminates Article 9G in the previous Law. The article does not directly address the activities of Corruption Crimes, but by eliminating the inclusion of the clause that not being a state administrator does not have the potential for criminalization, because the boundary between state losses and business losses is very thin, so it is necessary to have clear boundaries regarding the responsibilities of the Board of Directors of State-Owned Banks. Clear boundaries regarding the responsibilities of the Board of Directors of State-Owned Banks in relation to determining strategies that may result in losses need to be studied more deeply from the perspective of renewal and formation through legal politics in Indonesia.

In relation to the background that has been explained in the background above, 2 (two) problem formulations are raised, including problems related to how the form and implementation of Legal Politics in Indonesia and how the Legal Formation Politics in the context of eradicating corruption that occurs in the BUMN Bank environment are viewed from the Role and Responsibilities of BUMN Bank Directors. The purpose of writing this scientific paper is to be able to see and know how the form and implementation of Legal Politics in Indonesia, and understand how the Legal Formation Politics in the context of eradicating corruption that occurs in the BUMN Bank environment are viewed from the Role and Responsibilities of BUMN Bank Directors. The update of the article is to emphasize the clear boundaries and as stated in the Law regarding the actions of BUMN Bank Directors that have an impact on company losses, examined from the perspective of state losses and or company business losses.

2. RESEARCH METHODS

This research method uses a Normative Juridical approach, focusing on the analysis of laws, regulations, legal doctrines, and the consistency of existing legal policies. The main objective of the Normative Juridical approach is to examine and analyze legal issues based on applicable laws and relevant legal theories. This method emphasizes the discovery and affirmation of positive law and the legal politics that underlie it. The type of research used is Normative Juridical Research. This research is descriptive-analytical, namely a comprehensive description of laws and regulations, policies, and legal theories related to

legal politics, state losses, and the responsibilities of the Directors of State-Owned Banks. Then, an in-depth analysis is carried out on the consistency, weaknesses, or potential of these legal issues. This research uses several approaches, including the Statute Approach, by examining all relevant laws and regulations, starting from the Constitution, the Law on the Formation of Legislation, the Law on State Finance, the Law on the Eradication of Corruption, to the Law on State-Owned Enterprises (including its latest amendments). Conceptual Approach, carried out by studying and analyzing relevant legal concepts and theories, the concept of State Losses (compared to business losses), and the concept of

Accountability of Directors (Business Judgment Rule principle). The data sources of this study consist of Primary Legal Materials, including laws and regulations that have binding force, such as Law Number 12 of 2011 concerning the Formation of Legislation, Law Number 17 of 2003 concerning State Finance, Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption, Law on State-Owned Enterprises (including Law Number 16 of 2025), and Secondary Legal Materials: Includes publications on law, including books, scientific journals, and research results related to legal politics, Corruption, and State-Owned Enterprises. The analysis method used is qualitative analysis with a deductive mindset. Inventory and classify all legal norms (primary legal materials) that regulate Legal Politics in Indonesia, the status of State-Owned Enterprise Banks as managers of state finances, and the responsibilities of State-Owned Enterprise Directors. Conceptual and Theoretical Analysis that analyzes how the concept of Legal Politics is applied in the formation of laws, as well as an in-depth comparison of State Losses with Business Losses in the context of State-Owned Enterprises, by reviewing the Business Judgment Rule theory. Conducting synthesis and evaluation of related legal norms, especially in articles that regulate Corruption and the responsibility of Directors. For example, by analyzing the impact of the removal of Article 9G of the State-Owned Enterprises Law on the potential for criminalization and the unclear limits of losses. Drawing Conclusions (Deductive) is carried out based on the theoretical framework and analysis of legal norms. Conclusions are drawn about the form and implementation of legal politics that should create clear and fair boundaries for State-Owned Enterprise Bank Directors, to prevent the potential for just criminalization.

3. RESEARCH RESULTS AND DISCUSSION

3.1.Research result

The results can be formed of Indonesian Legal Policy is fundamentally influenced by Pancasila and the 1945 Constitution. All legal products must refer to these values. As time goes by and society's mindset develops, aspirations often become the starting point for thinking about the formation of law, and to this day, Legal Policy in Indonesia must be democratic, socially just, and based on the rule of law. Cicero, a philosopher, once made a statement that is still considered relevant: "ubi societas ibi ius," which means where there is society, there is law. The emergence of a public aspiration regarding the formation of law or legal reform often begins with anxiety or restlessness stemming from the disorder and injustice that arise. Thus, the formation of law stems from social phenomena that live and develop in community life. People interact with each other in their daily activities, even among state officials and indirectly with the state, so that any friction that occurs must be limited by clear and fair corridors. Differences in views that cause friction can lead to disharmony in relations between communities and the state, so that regulations are needed to create certainty as a guide for behavioral actions. This certainty is wrapped in the form of law to create order and regularity in society through a process in accordance with applicable provisions.

In connection with the discussion above, legal policy currently functions as a tool for social engineering (*tool of social engineering*)(Hidayat, D., & Hainadri, H., 2021), so that new legal products from a legal political journey function to achieve the goals of change from society in the context of creating peace and sovereignty of the state, however, the spirit of the formation of legislation or the formation of new laws itself is felt to be not the same as the aspirations of society, often the formation of law through Indonesian legal politics in the implementation activities of the formation of legal politics is still not balanced between the legal needs in society and the roadmap for the formation of legislation by policy makers. This implementation becomes a serious challenge, especially related to the inconsistency between the spirit of the law that is expected and ideal for society and the practice of its implementation in the field. Issues regarding urgent and urgent legal needs today often create legal gaps and are a reflection that legal politics is still not ideal in finding the most effective and just substantial structure. Therefore, it is important to study in depth how the ideal form of legal politics has been formulated and planned, and the extent to which its implementation has represented the aspirations and needs of the state in achieving the goals of the Indonesian rule of law context. Indonesian legal policy is complex and must reflect the harmony between state ideology and the need for justice in society, legally enshrined in laws. Legislative politics is a subsystem of legal politics designed to create new laws. Therefore, understanding legal politics is tantamount to understanding legislative politics.

Bagir Manan defines the term legal politics as a policy regarding the content or object of the formation of laws and regulations (Bagir Manan, 1992), so that the products of these laws and regulations are the final form or output of a legal policy that is developed into regulations or laws that must be obeyed and implemented according to the clauses contained therein. The formation of a law is ideally based on 3 three things (Wiryadi, U., & Martono, E. D., 2024), which must be fulfilled in order to become a strong and just legal product. The foundations above can be a basic theory in a series of ideas, implementation, to testing of a legal product. The basic theory of legal politics must be fulfilled in the implementation and implementation of legal formation. The basic principles are obtained from culture or customs that grow from society and become new hopes that need to be stated or codified in the form of new laws that are ratified. From the state perspective, the basic principles are derived from the highest values, namely Pancasila and the 1945 Constitution. Harmonization of the mindset of society and the state creates the hope that the formation of new laws will be appropriate and consistent so that they no longer cause conflict and friction. Legal politics must go through several stages and ratifications, so that, administratively, clear boundaries are established from the planning process to the ratification of the law. The system for testing legislation must also be facilitated and provided by the state; often, there are errors or conflicts between one legislation and another, so that a review of these regulations is necessary. The formation of laws as part of the legal politics process requires a strong and ideal foundation, requiring in-depth studies related to values derived from various aspects. The form of legal politics in the form of legislation is issued from a series of long processes, deep thought, and the involvement of many parties to produce the best form of law. The form of legal politics in Indonesia can be analyzed from two main dimensions: the substantive dimension and the institutional dimension. In the substantive dimension, the output of Indonesian legal politics serves to realize democratic law. The concept of legal politics is based on 3 (three) fundamental principles.

The principle of the rule of law is mandatory because the ultimate goal of legal policy is the law itself. The rule of law serves as a model for compliance and guidance, and the principle of a unitary state serves as a symbol that all regions comply with and submit to the laws that have been created and passed. The principle of democracy, in the form of public encouragement in the formation of laws, is also very necessary because the subjects of the law themselves are individuals and legal entities recognized by the state. Legal politics also plays a role in replacing colonial laws with more original laws and the results of national personality thinking, the main principle of which is substantive justice, which refers to state values. In the institutional dimension, the form of legal politics is seen in the distribution of authority for the formation, implementation process, and oversight of legal formation. Legislative authority is held by the House of Representatives (DPR) together with the President as mandated by Article 20 of the 1945 Constitution, while judicial authority is through the Constitutional Court and the Supreme Court, which have a role in testing laws (judicial review). Legal formation begins from the planning stage, through ratification, to testing. The formation of laws in the form of laws is carried out to fill the renewal due to old regulations being no longer appropriate, or conflicting with other laws. Updating existing regulations is called the "renewal dimension". The formation of laws due to a legal vacuum or the absence of regulations that regulate it so that new regulations are needed, is called the "creation dimension". The preparation of laws is divided into 3 (three) stages. (Aziz. M.N, 2020) The pre-legislation stage must go through a thorough process of planning, preparation, and drafting of the law. The legislation stage carries out discussions by the House of Representatives (DPR) and the government until it is ratified, while the post-legislation stage must carry out documentation, dissemination, counseling, and implementation. (Agung, W., Purwanto, R., & Daeny, M., 2022) The series of legal and political processes above is the standard flow in the framework of creating laws; however, one thing that is urgent and crucial is the contribution of the community or people's power in providing legal and political aspirations. Public aspirations are the supreme force that must serve as a reference for determining the direction of the formation of laws needed in accordance with current legal urgency. Harmonizing these aspects can create laws that are sovereign, authoritative, and adhered to by all.

3.2. Discussion: The Policy of Establishing Laws in the Framework of Eradicating Corruption in State-Owned Banks as Seen from the Role and Responsibilities of State-Owned Bank Directors

The formation of laws in Indonesia is a series of legal policies in Indonesia to determine policies based on justice. The role of society and the state is needed in the implementation of the flow to determine which laws will be formed, amended, or revoked to achieve the goals of the state based on Pancasila and the 1945 Constitution. The current developing legal issue is the increasing number of state losses due to frequent corruption; legal regulations related to the eradication of corruption itself are already very numerous. Institutions authorized for supervisory and repressive functions have been established in order to reduce the number of corruption in Indonesia, but often state losses remain a major problem resulting from a series of corruption crimes. Corruption in the environment of state-owned enterprises, especially those in state-owned banks, is rampant to date. If it has fulfilled the element of mens rea related to the commission of a criminal act of corruption, then it is deemed necessary for the law to be impartial, because basically anyone who causes harm to state finances can be charged with the law related to corruption. However, it is certainly different if the element of mensrea is not found, but has the potential to cause state losses. This can

occur in strategic decisions taken by the Board of Directors of State-Owned Banks as authorized officials in decision-making that could potentially lead to state losses if the direction of the decision results in losses due to certain factors. The Board of Directors of State-Owned Banks plays a central role as the party most responsible for the management of the bank, which is also a Limited Liability Company, in accordance with the mandate of Law Number 40 of 2007 concerning Limited Liability Companies. The management of State-Owned Banks by the Board of Directors involves state assets that are given and become the capital of State-Owned Enterprises, where state assets are an integral part of state finances in accordance with the State Finance Law. (Sandi et, al, 2023)

The Board of Directors of State-Owned Banks is obliged to carry out state financial governance more carefully. State-Owned Banks are Limited Liability Companies, which are essentially corporations, a small portion of which is owned by non-governmental parties seeking profits from capital in the form of shares invested in State-Owned Banks. However, State-Owned Banks currently have a dual role, namely, seeking profits and serving the public. Based on this, State-Owned Banks have the following roles: Pure Corporation (Profit-Oriented): Responsible for achieving maximum profits and returns for shareholders (the State). Development Agent (Public Service Obligation/PSO): Carrying out public service functions and the principles of banking prudence regulated by the Financial Services Authority (OJK) and Bank Indonesia (BI). The Board of Directors of State-Owned Banks is obliged to act in good faith and carefully in determining policy direction (duty of care), and can uphold the interests of the Company (duty of loyalty). Based on good management, it will certainly produce good company profits as well. The responsibilities of the Board of Directors of State-Owned Banks are basically required to be carried out using the Fiduciary Duty principle (De Valerie, A., & Putra, M. R. S., 2024), so that the direction and strategy made must be fully based on good faith, a sense of responsibility, and avoid conflicts of interest. The Board of Directors carries out incorrect management of the Company if it does not carry out the duty of care and duty of loyalty. and with bad intentions take opportunities for personal gain in the name of the Company's interests. (Syarief, E., & Balqist, A., 2018) The Board of Directors of State-Owned Banks is also required to implement the Prudent Banking Principle, which requires greater caution to protect public funds and the stability of the financial system.

State-owned banks in particular have a vital and crucial role as the main pillar of national economic stability and a driver of development. Failure or loss that occurs in a state-owned bank will have a systemic impact on the state and society. The management of state-owned banks must be carried out by professionals who prioritize the interests of the company, thus demanding good corporate governance (GCG) standards (Muh. Effendi Arief, 2009), as well as stricter prudent principles compared to other private corporations. Losses that occur in state-owned banks are not immediately considered state losses, because there are certain limitations called the Business Judgment Rule (BJR). BJR explains the limits of actions that cannot be punished for certain things. This BJR is like a spirit to prioritize the professionalism of the Board of Directors in carrying out the management of state-owned banks. BJR is a type of legal protection for directors who cannot be held accountable if they can prove: Good Faith: Decisions are made solely for the interests and objectives of the bank. Due Care: Decisions are based on sufficient information, thorough analysis, and processes that comply with professional banking standards based on risk management and Good Corporate Governance (GCG). No Conflict of Interest: Decisions do not benefit oneself or affiliated parties. It is difficult to distinguish between bank losses resulting from

purely business (business loss), which are protected by BJR, and losses resulting from unlawful acts (corruption). This requires clear boundaries because it is crucial. BJR seems to protect the Board of Directors from business failures that result in losses, but its intentions are carried out in good faith, carefully, and without conflict of interest. However, BJR does not apply if the loss arises from deliberate or negligent actions carried out in bad faith or in violation of laws and regulations, including the principle of banking prudence.

The Limitation of Criminally Prosecutable Actions in relation to the criminal liability of State-Owned Bank Directors must refer to three fundamental aspects: Unlawful Acts in relation to corruption, if the losses of the State-Owned Bank occur due to unlawful acts, such as actions that violate the Law (especially the Banking Law, the PT Law, and the Corruption Law and other related laws) or violate propriety, good faith, and the principle of prudence. Abuse of Authority, in the form of actions exceeding the limits of authority, such as credit approvals that do not comply with procedures or the bank's Standard Operating Procedures (SOP), or conducting transactions that contain elements of conflict of interest. The Element of Intention (Mens Rea), related to the context of Corruption, must be proven to have evil intent or intentionality for personal or other people's unlawful gain, which has an impact on state losses. The implementation of BJR must be carried out very strictly; it is necessary to add detailed clauses to absolutely limit the categories of BJR to avoid multiple interpretations. The existence of gross negligence or bad faith can eliminate BJR protection and open the door to criminal prosecution related to Corruption. Therefore, the criminal limit lies in the distinction between normal business risks (risk of business) and risks arising from unlawful acts (corruption). Violations of the Prudential Banking Principles, such as failure to comply with the Legal Lending Limit (LLL), or failure to conduct adequate planning and failure to implement risk management and GCG principles, must be included in the legal update clauses of the State-Owned Enterprises Law specifically for the banking sector. In connection with the explanation of the BJR limits mentioned above, it is deemed necessary to update the law on the State-Owned Enterprises Law specifically to add regulations related to the banking sector. This sector is important because State-Owned Enterprises (BUMN) are very vital institutions related to the national economy and can cause a domino effect if not strictly regulated. Special regulations for State-Owned Enterprises (BUMN) Banks in the BUMN Law need to be made regarding the addition of special clauses for BJR limits, as well as requirements for adequate bank prudential management, risk management principles, and GCG principles.

In relation to the above-mentioned legal policy reform ideas related to State-Owned Banks, the flow and stages of the legal formation process are divided into 5 (five) stages of formation. The Planning Stage is a reflection of legal policy in determining legislative priorities. The eradication of criminal acts of corruption is a major issue, especially in the State-Owned Bank sector, so that it becomes one of the main priorities in the Draft Law (RUU). The Drafting Stage, the Bill related to the renewal of the limitations on the roles and responsibilities of the Directors of State-Owned Banks needs to be prepared and studied in depth scientifically regarding the main ideas, philosophy, sociology, and juridical background to the need for such reform. The Discussion Stage focuses on the main political process to produce a joint agreement. The main activities are an introduction from the proposer, the views of the faction/government, and discussion of the problem. The Ratification/Determination Stage of Joint Agreement, after the plan to reform the State-Owned Bank Law is approved, it is then submitted to the President for ratification. The Promulgation and Dissemination Stage. The promulgation must be promulgated. The update of the

BUMN Law must come into effect from the date of publication, unless the DPR and the government agree otherwise. In connection with the above, legal politics related to the legislative context is not merely a technical process, but also a process that is closely related to ideological (political) values and choices that function as instruments for Legal Development to update legal materials to be relevant to the needs of society and demands for justice.

Harmonization of laws vertically (not contradicting regulations above) and horizontally (not overlapping with regulations at the same level) needs to be carried out at all times. Reflection on the Principles is also necessary to ensure that the substance of the Law Reform is based on the general principles of good legal formation. (Putri, N. N., Hidayat, R., & Oktavia, W., 2018) Greater and more transparent public openness and participation are also needed at every stage of legal formation, although the implementation of this principle is often a point of criticism. The main challenge in implementation is the inconsistency and disparity in law enforcement. Often, the formation of progressive laws at the central level is not followed by adequate implementation at the regional level or before law enforcement officials (Police, Prosecutors, Courts). Political intervention is a major factor that hinders the achievement of legal political goals. The implementation of Legal Politics in Indonesia cannot be separated from the role of the community in pushing for the issuance of the required laws according to their priorities. Often, the roadmap of bills made by regulators and policymakers is not in line with the needs of legal products according to the current legal issues or problems. This is the background to the need for harmonization and integration of policies that will be issued, which need to be carried out by going through a series of comprehensive processes, so that the law can be passed immediately.

4. CONCLUSION

Indonesian legal politics is reflected in the state policy to form laws based on the Pancasila ideology and the 1945 Constitution. The form of legal politics in the form of laws is an effort to nationalize and democratize law, but in practice, it is still strongly influenced by the tug of war between political interests, economics, and the ideals of social justice. A series of legal and political processes in the framework of creating legislation has become urgent and crucial without involving the community or people's power to provide legal and political aspirations. Community aspirations are the highest power that needs to be a reference for determining the direction of the formation of laws needed in accordance with the current legal urgency. Harmonization of the above aspects can create laws that are sovereign, authoritative, and obeyed by everyone. In connection with legal issues related to the eradication of corruption that is rife in the state-owned banking sector, viewed from the role and responsibilities of the Directors of State-owned Banks, it needs special attention and needs to receive policies and updates from legal authorities. State-owned banks are very vital institutions because bank losses can cause a domino effect on the country's economy if not strictly regulated. Corruption in state-owned banks that results in state losses, even if it meets the mensrea element, is still categorized as a criminal act of corruption, because basically anyone who causes losses to state finances can be charged under the law related to corruption, but it is different if the mensrea element is not found, but still has the potential to cause state losses. This can occur in strategic decisions taken by the Directors of State-owned Banks as authorized officials that may lead to potential state losses. In this regard, clear boundaries are needed regarding the roles and responsibilities of the Directors of State-owned Banks in the context of strategies that may

cause losses seen from the perspective of renewal and formation through legal politics in Indonesia.

Public involvement in providing aspirations must be accommodated and listened to by the government, as the official authorized to create existing legal reforms. Often, friction arises after the government issues laws without involving the public. Legal Politics legislation itself already includes the planning, drafting, and initial discussion stages, where all of these processes facilitate the public to participate in providing input regarding input that can be considered for inclusion in new legislation. The greatest challenge of Indonesian legal politics going forward is ensuring that every legal product and its enforcement process is truly oriented towards the interests of the people and state justice, not merely the interests of power or a handful of officials. In connection with the rampant criminal acts of corruption in state-owned banks that have resulted in state losses, clear boundaries are needed, especially regarding the distinction between bank losses resulting from purely business (business loss) and losses due to unlawful acts (corruption). These boundaries are necessary to minimize the criminalization of directors for business failures that result in losses, but are based on good faith, full caution, and without conflict of interest. However, if the loss arises due to deliberate error or negligence or violation of statutory regulations, then it is certainly a violation of the applicable law. Limitations of Actions that can be prosecuted in relation to the criminal liability of the Directors of State-Owned Banks must be unlawful acts, abuse of authority, and elements of intent (Mens Rea). Based on this, it is necessary to update the law on State-Owned Enterprises, specifically by adding regulations related to the banking sector regarding the addition of special clauses for the limitations of losses due to business and non-business, as well as the requirements for prudent management of banks, risk management principles, and adequate GCG.

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