

Reconstructing the Legal Policy of Human Resource Management in Indonesian State-Owned Enterprises after the 2025 SOE Law Reforms: An Accountability-Based Corporate Merit Model

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Abstrak

Reformasi manajemen sumber daya manusia pada Badan Usaha Milik Negara (BUMN) merupakan persoalan kebijakan hukum karena negara harus menyeimbangkan kewenangannya sebagai pemilik, tuntutan akuntabilitas publik, dan kebutuhan akan otonomi korporasi. Penelitian ini menganalisis arah kebijakan hukum pengelolaan sumber daya manusia BUMN setelah reformasi rezim hukum BUMN tahun 2025, mengidentifikasi fragmentasi normatif serta risiko intervensi nonprofesional, dan merumuskan model tata kelola yang sesuai dengan karakter korporasi BUMN. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan historis. Bahan hukum dianalisis secara kualitatif-preskriptif melalui inventarisasi norma, penafsiran sistematis dan teleologis, serta pengujian konsistensi antarregim hukum BUMN, perseroan, ketenagakerjaan, tata kelola korporasi, dan merit. Hasil penelitian menunjukkan bahwa sistem merit ASN tidak tepat ditransplantasikan secara langsung ke BUMN karena perbedaan status kepegawaian, struktur kewenangan, dan kebutuhan bisnis. Kebaruan penelitian terletak pada model corporate merit berbasis akuntabilitas dengan lima pilar: koherensi regulasi, independensi profesional, objektivitas berbasis kompetensi dan kinerja, keterlacakan keputusan, serta akuntabilitas proporsional. Model ini menempatkan hukum sebagai batas akuntabilitas bagi diskresi korporasi tanpa menghilangkan fleksibilitas bisnis.

Kata Kunci: kebijakan hukum; badan usaha milik negara; corporate merit; manajemen sumber daya manusia; akuntabilitas; good corporate governance.

Abstract

Reforming human resource management in Indonesian State-Owned Enterprises (SOEs) is a matter of legal policy because the state must reconcile its authority as owner, the demands of public accountability, and the need for corporate autonomy. This study analyzes the direction of legal policy governing SOE human resources following the 2025 reforms to the SOE legal regime, identifies normative fragmentation and the risks of non-professional intervention, and formulates a governance model compatible with the corporate character of SOEs. The study employs normative legal research using statutory, conceptual, and historical approaches. Legal materials are analyzed qualitatively and prescriptively through the inventory of norms, systematic and teleological interpretation, and consistency testing across the SOE, company, labor, corporate-governance, and merit regimes. The

findings show that the civil-service merit system should not be transplanted directly into SOEs because of differences in employment status, authority structures, and business requirements. The novelty of this study lies in the construction of accountability-based corporate merit as a legal-policy model built on five pillars: regulatory coherence, professional independence, competency- and performance-based objectivity, decision traceability, and proportional accountability. Under this model, law functions as an accountability boundary for corporate discretion rather than as an instrument of uniformity, thereby preserving professionalism and business flexibility without diminishing transparency, integrity, or public accountability.

Keywords: legal policy; state-owned enterprises; corporate merit; human resource management; accountability; good corporate governance.

INTRODUCTION

State-Owned Enterprises (SOEs) occupy a distinctive position within Indonesia's constitutional and economic architecture because they simultaneously operate as business corporations and as state instruments for achieving strategic economic objectives and serving the public interest. This dual character means that SOEs cannot be equated entirely with private companies, yet neither are they identical to conventional public administrative bodies. Indonesian scholarship describes this configuration as a hybrid organizational form in which public accountability, state control, corporate autonomy, and the demands of business efficiency coexist and may generate normative tensions.¹ Recent legislative developments have further intensified this institutional complexity. Law No. 1 of 2025 and, subsequently, Law No. 16 of 2025 altered the SOE legal framework by restructuring the governance architecture, separating supervisory and operational functions, and reaffirming the state's strategic role in SOE management. These changes make human resource governance an important legal-policy issue because the quality, independence, and accountability of human resource decision-making directly affect the ability of SOEs to perform both their commercial and public mandates.

The human resource dimension is crucial because corporate reform cannot be sustained solely through changes in ownership structures, organizational design, or financial supervision. Governance effectiveness ultimately depends on the actors who make and implement organizational decisions. Studies of Indonesian SOEs indicate that governance quality is closely related to the composition and functions of corporate organs, internal control, transparency, and accountability. Research on talent management in SOEs likewise shows that competency development, career systems, and structured talent management can improve both employee and organizational performance.² International literature further demonstrates that human resource management should not be treated as a peripheral administrative function, but as an integral element of corporate governance and organizational

¹Y. Indrawati, "Are BUMN/state-owned enterprises (SOEs) hybrid organizations?," *Pandecta Research Law Journal* 15, no. 1 (2020): 1-12, <https://doi.org/10.15294/pandecta.v15i1.24193>.

²A. N. Mutiara, A. Hubeis, and A. Sukmawati, "Talent management in improving the employees performance of PT PLN (Persero) TJBB APP Cawang," *Indonesian Journal of Business and Entrepreneurship* 5, no. 1 (2019): 96-106, <https://doi.org/10.17358/ijbe.5.1.96>.

strategic capability.³ Accordingly, reform of SOE human resource management should be understood as part of the broader transformation of state-corporate governance rather than merely as a technical labor-management matter.

Nevertheless, the legal construction of SOE human resource management remains complex. The legal status of SOEs has long generated debate because state ownership and public functions coexist with separate legal personality and corporate managerial logic. Similar tensions appear in debates concerning state finance, the application of the business judgment rule, holding structures, and the legal position of SOE organs.⁴ This hybrid character also shapes human resource policy. On the one hand, SOEs require managerial flexibility to recruit, develop, promote, and reward employees in accordance with business needs. On the other hand, the use of state capital, the performance of public functions, and the political significance of strategic SOE positions create legitimate demands for transparency, integrity, professionalism, and public accountability. Legal policy governing SOE human resources must therefore reconcile two potentially competing objectives: preserving corporate discretion while ensuring that human resource decisions are not distorted by patronage, conflicts of interest, or non-merit considerations.

The merit principle is an important analytical reference in this context, but its legal status must be formulated carefully. Previous discussions have often compared SOE employment practices with the merit system under the Indonesian Civil Service (Aparatur Sipil Negara, ASN) regime. SOE employees, however, are not automatically subject to the civil-service employment regime. Law No. 20 of 2023, which replaced Law No. 5 of 2014, regulates merit-based management within the ASN system, whereas SOE human resources fall under the legal frameworks governing SOEs, companies, labor relations, and internal corporate regulation, including Minister of State-Owned Enterprises Regulation No. PER-3/MBU/03/2023 on the Organs and Human Resources of State-Owned Enterprises. Meritocracy in SOEs should therefore not be treated as a direct extension of civil-service law, but as a governance principle capable of underpinning objective recruitment, competency-based placement, measurable performance evaluation, transparent career development, and accountable succession. Studies on the implementation of merit systems in Indonesian public institutions consistently show that competency, performance measurement, institutional commitment, and effective oversight are prerequisites for reducing subjectivity in personnel decisions.

This distinction is important because the principal risk in SOE human resource governance is not merely the absence of formal rules, but the possibility of a gap between normative governance standards and actual decision-making practices. Political and organizational studies have identified problems in the distribution of strategic SOE positions and the influence of political interests in appointment

³L. Lima and B. Galleli, "Human resources management and corporate governance: Integration perspectives and future directions," *European Management Journal* 39, no. 6 (2021): 731-744, <https://doi.org/10.1016/j.emj.2021.02.004>.

⁴F. P. Fitriyanti, "Teori sumber vs teori badan hukum dan teori transformasi keuangan dalam menafsirkan status hukum keuangan Badan Usaha Milik Negara," *Syntax Literate: Jurnal Ilmiah Indonesia* 7, no. 8 (2022), <https://doi.org/10.36418/syntax-literate.v7i8.9179>.

processes.⁵ At the same time, corporate-governance research indicates that formal mechanisms do not automatically produce accountability where organizational culture, internal controls, and institutional independence remain weak.⁶ In this context, human resource reform requires more than the adoption of recruitment procedures or performance indicators. It requires a legal-policy design capable of connecting legal norms, institutional authority, oversight mechanisms, data-driven performance systems, ethical safeguards, and a professional organizational culture.

The urgency of this issue has increased following the most recent transformation of the SOE governance regime. The legislative amendments adopted in 2025 altered the institutional landscape within which state ownership, supervision, and operational management are exercised. At the regulatory level, PER-3/MBU/03/2023 already provides an important framework for governing SOE organs and human resources, including qualification requirements, appointments, and the governance of strategic positions. The existence of a formal regulatory framework, however, does not by itself resolve the more fundamental legal-policy question: what principles should the state use to design an SOE employment system that preserves corporate flexibility while simultaneously ensuring public accountability, merit, and protection against conflicts of interest? This question is increasingly important because SOE human resource governance lies at the intersection of public and private law, while legal reform in this area must simultaneously address efficiency, professionalism, legal certainty, and democratic accountability.

In this study, legal policy is understood as the state's policy choice regarding the direction, form, and substance of law adopted to achieve particular public objectives. This framework treats changes to SOE law not merely as technical institutional adjustments but as policy choices concerning the distribution of state authority, the boundaries of corporate autonomy, and the accountability standards that should govern state-owned corporations. This understanding is consistent with Mahfud MD's conception⁷ of legal policy as official policy concerning laws to be enacted or amended in order to achieve state objectives. From this perspective, SOE human resource governance must be examined as part of the state's decision concerning who is authorized to make personnel decisions, what parameters constrain discretion, and what mechanisms ensure that such authority is exercised professionally and remains reviewable.

The third amendment through Law No. 1 of 2025 marked an important turning point by reaffirming SOE management as part of the exercise of governmental power and delegating certain presidential authorities to the Daya Anagata Nusantara Investment Management Agency. Article 3E reflects a repositioning of the SOE management function within a new institutional architecture. Subsequently, Law No. 16 of 2025, as the fourth amendment, again reconfigured this arrangement by

⁵M. H. Zulkarnain and S. Izzati, "Politik pembagian kekuasaan jabatan BUMN dalam pemerintahan Joko Widodo–Ma'ruf Amin," *Parapolitika: Journal of Politics and Democracy Studies* 3, no. 1 (2022): 83-95, <https://doi.org/10.33822/jpds.v3i1.6065>.

⁶A. R. Daffa and E. Herwiyanti, "Tinjauan literatur prinsip good corporate governance (GCG) pada Badan Usaha Milik Negara Indonesia," *Economics and Digital Business Review* 4, no. 2 (2023): 217-230, <https://doi.org/10.37531/ecotal.v4i2.803>.

⁷M. Mahfud MD, *Politik hukum di Indonesia*, Edisi revisi (Rajawali Pers, 2019).

restructuring institutional nomenclature, separating supervisory and operational functions, regulating the state's special rights through Series A Dwiwarna shares, restricting certain concurrent positions within SOE organs, and strengthening audit authority exercised by the Audit Board of Indonesia. These changes indicate that SOE legal policy is moving toward greater governance professionalization while retaining mechanisms of public control. Consequently, human resource policy cannot be treated merely as an internal administrative matter, because appointments to strategic positions are a concrete point at which state interests, corporate interests, and public accountability intersect.

Previous scholarship has developed along relatively separate trajectories. Legal literature has focused largely on the hybrid character of SOEs, the status of state finance, the legal position of corporate organs, holding structures, and the boundary between public and private law.⁸ Public-administration studies have situated the merit system primarily within the ASN context⁹ whereas management studies have emphasized talent management, leadership competencies, performance, and corporate governance.¹⁰ The research gap lies in the absence of an integrated model of SOE human resource legal policy after the 2025 regulatory reforms that simultaneously explains the limits of state authority, the form of corporate independence, and legally reviewable merit parameters.

Table 1. Positioning of the Study and Research Gap

Research Stream	Main Focus	Limitation	Position of This Study
SOE Law	Hybrid status, state finance, corporate organs, holding structures	Does not focus specifically on the legal architecture of human resource governance	Connects the SOE legal regime with the design of human resource decision-making
Public Administration	ASN merit system and bureaucratic reform	The ASN regime is not identical to SOE employment relations	Adopts merit values without transplanting the ASN regime
Management/HRM	Talent management, competency, performance, and good corporate governance	Emphasizes managerial effectiveness more than legal accountability	Transforms managerial principles into parameters of legal accountability
This Study	SOE human resource legal policy after the 2025 reforms	-	Formulates accountability-based corporate

⁸Y. Indrawati, "Are BUMN/state-owned enterprises (SOEs) hybrid organizations?," *Pandecta Research Law Journal* 15, no. 1 (2020): 1-12, <https://doi.org/10.15294/pandecta.v15i1.24193>.

⁹N. Asyikin, "Legal politics of bureaucratic reform in really good governance according to prophetic law," *Jurnal Ilmiah Hukum LEGALITY* 28, no. 1 (2020): 81-95, <https://doi.org/10.22219/ljih.v28i1.10393>.

¹⁰A. N. Mutiara, A. Hubeis, and A. Sukmawati, "Talent management in improving the employees performance of PT PLN (Persero) TJBB APP Cawang," *Indonesian Journal of Business and Entrepreneurship* 5, no. 1 (2019): 96-106, <https://doi.org/10.17358/ijbe.5.1.96>.

Against this background, the study addresses three questions: first, how do the changes to the SOE legal regime restructure the relationship among state authority, corporate autonomy, and accountability in human resource management; second, how can the merit principle be institutionalized without assimilating SOE employees into the ASN system; and third, what legal-policy construction is required to constrain non-professional intervention without eliminating legitimate business discretion? The novelty of this study lies in formulating accountability-based corporate merit as a five-pillar normative model that makes objectivity, traceability, and accountability legal limits on discretion in SOE human resource management.

RESEARCH METHOD

This study employs normative legal research (doctrinal legal research), treating law as a system of norms, principles, concepts, and institutional arrangements. The analysis focuses on the legal-policy construction of SOE human resource management and therefore examines normative consistency, the distribution of authority, and the need for legal reform rather than empirically measuring employee behavior. The study applies statutory, conceptual, and historical approaches.¹¹

The statutory approach examines the 1945 Constitution of the Republic of Indonesia; Law No. 19 of 2003 on State-Owned Enterprises, as most recently amended by Law No. 16 of 2025; Law No. 40 of 2007 on Limited Liability Companies and its amendments; Law No. 13 of 2003 on Manpower and its amendments; Law No. 20 of 2023 on the State Civil Apparatus as a comparative reference for the merit principle; and Minister of State-Owned Enterprises Regulation No. PER-3/MBU/03/2023 on the Organs and Human Resources of State-Owned Enterprises. The conceptual approach is used to examine legal policy, hybrid organizations, merit, professionalism, accountability, and good corporate governance. The historical approach traces the shift in SOE legal orientation from administrative control toward corporate governance that increasingly emphasizes professionalism, separation of functions, and oversight.

Primary legal materials consist of the Constitution, statutes, implementing regulations, and normative policies related to SOEs and human resource management. Secondary legal materials comprise journal articles, academic books, and legal scholarship selected on the basis of relevance, publisher credibility, and currency. Materials were collected through library research and systematic document inventory and were classified into five themes: SOE legal policy; the hybrid status of SOEs; merit systems and human resource management; good corporate governance; and oversight and intervention in appointments to strategic positions.

The legal materials are analyzed qualitatively and prescriptively in three stages: (1) inventorying and classifying norms to map authority and relationships among legal regimes; (2) grammatical, systematic, and teleological interpretation to

¹¹T. A. S. Negara, "Normative legal research in Indonesia: Its origins and approaches," *Audito Comparative Law Journal* 4, no. 1 (2023): 1-9, <https://doi.org/10.22219/aclj.v4i1.24855>.

identify regulatory purposes, conflicts, and normative gaps; and (3) construction of legal arguments to formulate the governance model that ought to apply. Source accuracy is tested through cross-checking official regulations, legal doctrine, and findings from previous studies. This design directs the analysis beyond a description of positive law toward the formulation of an *ius constituendum* for SOE human resource governance that preserves corporate flexibility while strengthening public accountability.

For this article, “corporate merit” is not the ASN merit system transplanted into an SOE. It is a proposed corporate-governance standard under which appointment, promotion, remuneration, evaluation, and removal decisions are based on competence, performance, integrity, traceable criteria, and accountable corporate process, while remaining subject to the authority structure of company law, SOE law, labor law, and the business judgment rule. Its normative status is therefore *de lege ferenda* and policy-prescriptive unless a specific component is already mandated by positive law or internal SOE regulation.

The 2025 SOE reforms must be read cumulatively. Law No. 1 of 2025 initiated the third amendment to the SOE Law and substantially altered the architecture of state ownership and Danantara-related authority. Law No. 16 of 2025 subsequently introduced the fourth amendment and became the current statutory reference for institutional nomenclature, the separation of supervisory and operational functions, special Series A Dwiwarna shareholder rights, restrictions on concurrent ministerial positions, and audit arrangements. The analysis therefore distinguishes provisions that remain in force from provisions that were subsequently modified.

RESULTS AND DISCUSSION

The Hybrid Position of SOEs as the Starting Point of Human Resource Legal Policy

The findings show that the principal challenge in reforming human resource management in State-Owned Enterprises cannot be explained merely as a technical matter of personnel administration. The root of the problem lies in the hybrid institutional character of SOEs. On the one hand, SOEs are business entities expected to operate according to corporate logic, efficiency, competitiveness, and value creation; on the other hand, they continue to carry state mandates, manage separated state assets, and, in certain sectors, perform public-service functions. This dual character places SOE human resource policy at the intersection of public and private law. The finding reinforces Indrawati's ¹² view that SOEs are hybrid organizations and therefore should not be governed entirely as either public bureaucracies or purely private corporations.

The evolution of SOE regulation through Law No. 16 of 2025 reflects a tendency to provide clearer space for professionalism and corporate rationality. Strengthening the corporate orientation, however, does not eliminate the public-accountability dimension. A normative tension therefore arises: the greater the demand for business flexibility, the greater the need to ensure that recruitment, promotion, rotation, remuneration, and dismissal do not become areas of

¹²Y. Indrawati, “Are BUMN/state-owned enterprises (SOEs) hybrid organizations?,” *Pandecta Research Law Journal* 15, no. 1 (2020): 1-12, <https://doi.org/10.15294/pandecta.v15i1.24193>.

unconstrained discretion. De Vries and Damayanti ¹³ show that the dual position of SOEs creates ambivalence between corporate independence and public-service obligations. In the human resource context, this ambivalence appears in the question of how far the state may determine individuals and strategic positions without undermining the professional autonomy of the enterprise.

These findings therefore characterize SOE human resource legal policy as a policy of balancing rather than uniformization. Uniformity with the State Civil Apparatus (ASN) system would disregard the nature of SOE employment relationships and business requirements; conversely, leaving all human resource policy to private-law logic could weaken transparency and accountability toward the public interest. The ASN merit system remains relevant as a source of principles, particularly competency, qualifications, performance, objectivity, and non-discrimination, but it cannot be treated as a legal regime directly binding SOE employees. Chairiah et al.¹⁴ and Khobiburrohman et al.¹⁵ show that even within public bureaucracy, implementation of the merit system remains strongly influenced by the quality of oversight, competency, and consistency of implementation.

From a legal-policy perspective, the more appropriate construction is a principle of corporate merit: a human resource governance model that preserves business flexibility while making competency, integrity, measurable performance, procedural openness, and conflict-of-interest controls legal limits on the discretion of shareholders and corporate organs. Under this construction, SOE human resource reform is not intended to transform SOE employees into civil servants; rather, it ensures that the corporate status of SOEs does not become a justification for patronage. This finding also underpins the subsequent argument that the principal problem is not a quantitative shortage of rules, but the absence of a normative architecture that consistently connects state interests, corporate independence, and human resource meritocracy.

From the standpoint of legal policy, the duality of SOEs should be translated into a normative choice that distinguishes between the state's "right to steer" and a "right to determine personnel individually." As owner, the state has legitimate authority to define strategic objectives, integrity standards, and accountability parameters; individual decisions concerning recruitment, promotion, or performance appraisal, however, should increasingly be delegated to professional, data-based, and auditable mechanisms. This distinction is necessary to prevent state ownership from becoming a justification for personalized authority while also preventing corporate autonomy from becoming a sphere free from accountability.

Regulatory Fragmentation and the Need to Harmonize SOE Human Resource Norms

¹³S. H. de Vries and R. Damayanti, "Implikasi dualitas kedudukan BUMN terhadap kemandirian korporasi dan fungsi pelayanan publik," *Kertha Semaya: Journal Ilmu Hukum* 13, no. 10 (2025): 2226-2240, <https://doi.org/10.24843/KS.2025.v13.i10.p05>.

¹⁴A. Chairiah, S. Ariski, A. Nugroho, and A. Suhariyanto, "Implementasi sistem merit pada Aparatur Sipil Negara di Indonesia," *Jurnal Borneo Administrator* 16, no. 3 (2020): 383-400, <https://doi.org/10.24258/jba.v16i3.704>.

¹⁵E. N. Khobiburrohman, P. S. Margareta, and M. S. Hasbullah, "Penerapan sistem merit dalam birokrasi Indonesia untuk mewujudkan good governance," *Transparansi: Jurnal Ilmiah Ilmu Administrasi* 3, no. 2 (2020): 139-148, <https://doi.org/10.31334/transparansi.v3i2.900>.

The inventory of legal materials shows that SOE human resource management is shaped by several layers of norms: the SOE regime, company law, labor law, corporate governance rules, and internal sector-specific policies. At the corporate-policy level, such flexibility is necessary because the business characteristics, organizational structures, and competency requirements of individual SOEs differ. At the level of legal policy, however, normative fragmentation becomes problematic when sufficiently uniform parameters are absent regarding the objectivity of appointments, conflict-of-interest controls, performance standards, and accountability for personnel decisions. As a result, space originally intended to provide managerial flexibility may become a domain of discretion that is difficult to review.

Minister of State-Owned Enterprises Regulation No. PER-3/MBU/03/2023 has consolidated a number of guidelines on SOE organs and human resources. This regulation is important because it reflects a move toward more structured human resource governance. Its effectiveness, however, still depends on consistency among statutes, implementing regulations, articles of association, shareholder decisions, and internal corporate policies. The issue became more complex after the 2025 SOE reforms because institutional and governance restructuring altered the distribution of authority among owners, corporate organs, and supervisory bodies. Human resource reform must therefore be understood as part of the reconstruction of SOE governance as a whole rather than as a stand-alone HR agenda.

This finding is consistent with Firdaus, Syaputra, and Dirkareshza¹⁶ who place the strengthening of good corporate governance within the renewal of the SOE legal system, particularly to protect integrity, transparency, and the state's interests. Nelaz and Junita¹⁷ likewise find that management commitment, internal-audit competency, and audit quality significantly affect the implementation of good corporate governance in SOEs. These findings indicate that sound human resource regulation cannot be limited to selection and appraisal rules; it must also be supported by oversight systems and institutional capacity capable of ensuring that those norms operate in practice.

This study identifies three areas in which harmonization is most urgent. First, vertical harmonization is required to ensure that internal SOE policies do not deviate from governance principles established by statutes and implementing regulations. Second, horizontal harmonization is needed among company law, labor law, and the public-accountability dimension so that SOEs are not drawn excessively into any single legal regime. Third, functional harmonization is required among the authority of shareholders, boards of directors, boards of commissioners, nomination/remuneration committees, human-capital functions, and internal oversight. Functional harmonization is important because many human resource problems arise not from the absence of rules but from insufficient institutional distance between decision-making and supervisory authorities.

¹⁶A. Firdaus, M. Y. A. Syaputra, and R. Dirkareshza, "Optimalisasi good corporate governance penguatan BUMN dalam perlindungan keuangan negara," *Mahadi: Indonesia Journal of Law* 1, no. 1 (2022): 96-111, <https://doi.org/10.32734/mah.v1i1.8317>.

¹⁷Y. S. Nelaz and D. Junita, "Good corporate governance pada BUMN di Sumatera Barat," *CURRENT: Jurnal Kajian Akuntansi dan Bisnis Terkini* 5, no. 3 (2024): 462-476, <https://doi.org/10.31258/current.5.3.462-476>.

On this basis, this study does not recommend the enactment of a wholly separate SOE employment statute as the sole solution. A more proportionate approach is to establish binding national minimum standards for SOE human resource governance while leaving technical details to each enterprise according to its business characteristics. At a minimum, these standards should include the corporate merit principle, transparency in appointments to strategic positions, competency indicators, conflict-of-interest management, audits of human resource decisions, and traceability of the reasons for decisions. Under this model, law functions as an accountability boundary without disabling the enterprise's need to act rapidly and competitively.

The 2025 regulatory reforms reinforce the need for such harmonization. Law No. 1 of 2025, through Article 3E, transferred part of SOE management authority to the Daya Anagata Nusantara Investment Management Agency, while Law No. 16 of 2025 again restructured the institutional architecture, separated supervisory and operational functions, clarified the state's special rights through Series A Dwiwarna shares, restricted certain concurrent positions, and reaffirmed the Audit Board of Indonesia's authority to audit SOEs. From a legal-policy perspective, this sequence of reforms demonstrates that the state has not abandoned control, but has changed its form from direct administrative intervention to control exercised through structure, shareholder rights, and supervisory mechanisms. Human resource management should follow the same logic: authority remains, but its exercise is constrained by competency standards, conflict-of-interest rules, reasoned decision-making, and audit trails.

Corporate Meritocracy: From Formal Recruitment to Evidence-Based Talent Systems

A further finding is the tendency to reduce meritocracy to open recruitment. Yet a merit system concerns not only how employees enter an organization, but also how competencies are mapped, performance is evaluated, talent is developed, promotions are made, and career decisions are objectively justified. Within SOEs, meritocracy should therefore operate throughout the entire human resource management cycle. Open recruitment without a consistent performance appraisal system merely shifts the problem from selection to promotion and career development. Rizke et al.¹⁸ show that implementation of merit systems faces constraints arising from organizational culture, human resource capacity, and supporting infrastructure, and they recommend strengthening both regulation and technology.

Accordingly, this study formulates SOE meritocracy in four layers. The first is entry merit: recruitment that is open, competency-based, and auditable. The second is performance merit: appraisal based on indicators relevant to the position and corporate objectives. The third is mobility merit: promotion, rotation, and succession based on performance data, potential, and organizational needs. The fourth is accountability merit: an obligation on decision-makers to explain the objective basis for selecting a particular person for a position. The fourth layer is

¹⁸D. Rizke, S. O. Kosassy, S. Jamaris, Nasrizal, and D. Jusari, "Evaluasi implementasi sistem merit dalam manajemen sumber daya manusia administrasi publik," *Jurnal Review Pendidikan dan Pengajaran* 8, no. 1 (2025): 2010-2015, <https://doi.org/10.31004/jrpp.v8i1.42265>.

often missing, even though it determines whether meritocracy can be reviewed or remains merely a managerial slogan.

The integration of human resource governance and corporate governance is also supported by Lima and Galleli¹⁹ whose systematic review shows that human resource management is an important variable in corporate governance even though it remains secondary in much of the literature. In the Indonesian SOE context, human resources cannot be treated as secondary because the quality of personnel occupying strategic positions directly affects decision-making quality, internal control, integrity, and corporate performance. Alipudin and Rahmi²⁰ likewise identify an important relationship among governance, internal control, and SOE performance. Human resource policy should therefore be understood as a governance instrument rather than merely an administrative function.

The implication is that SOE performance appraisal should move beyond outcome indicators alone toward a combination of outcome, process, and integrity indicators. Financial targets remain important, but strategic positions should also be assessed against compliance, risk management, the quality of internal controls, fulfillment of public-service mandates, and ethical conduct. This model avoids the paradox of treating an individual as successful solely because business targets were achieved even when the decision-making process was weak or burdened by conflicts of interest. Conversely, managers should not be penalized merely because a reasonable business decision ultimately produced a loss. This logic is consistent with the business judgment rule, which focuses on the quality of the decision-making process rather than solely on the eventual outcome.²¹

SOE merit reform must therefore rely on data and decision traceability. Every promotion to a strategic position should ideally be supported by a competency matrix, performance record, potential assessment, integrity record, and documented reasons for selection. Digitalization is important not because technology is inherently objective, but because digital records enable ex post review of decisions. At this point, digital transformation in human resource management becomes an instrument of legal policy: technology can reduce the space for unaccountable personalized decisions and expand the capacity to supervise the consistent application of merit.

The four layers of merit should carry legal consequences. Entry merit requires reviewable selection criteria and documentation; performance merit requires indicators established ex ante and applied consistently; mobility merit requires traceable reasons for promotion or rotation; and accountability merit requires a reason-giving obligation, namely an obligation on the decision-making organ to disclose the objective basis for its choice. Corporate merit thus ceases to be merely

¹⁹L. Lima and B. Galleli, "Human resources management and corporate governance: Integration perspectives and future directions," *European Management Journal* 39, no. 6 (2021): 731-744, <https://doi.org/10.1016/j.emj.2021.02.004>.

²⁰A. Alipudin and A. Rahmi, "Enhancing SOE performance in Indonesia: The role of governance and internal control," *International Journal of Social Science and Business* 9, no. 2 (2025): 479-490, <https://doi.org/10.23887/ijssb.v9i2.101197>.

²¹H. S. Disemadi, M. A. Yusro, and A. I. Shaleh, "Perlindungan hukum keputusan bisnis direksi BUMN melalui business judgement rule doctrine," *Jurnal Jurisprudence* 10, no. 1 (2020), <https://doi.org/10.23917/jurisprudence.v10i1.11006>.

an HRM technique and becomes a principle for controlling the exercise of authority within SOE governance.

Political Intervention, Patronage, and Independence in Appointments to Strategic Positions

The most sensitive aspect of SOE human resource legal policy concerns appointments to strategic positions. As shareholder, the state legally possesses both an interest and authority to determine corporate direction through corporate mechanisms. Government involvement in the appointment of directors or commissioners therefore cannot automatically be characterized as unlawful political intervention. The problem arises when shareholder authority is not constrained by reviewable competency standards, transparent nomination processes, and mechanisms for managing conflicts of interest. At that point, corporate authority may shift into patronage.

Zulkarnain and Izzati²² identify SOE appointment practices that intersected with the distribution of political power during the Joko Widodo-Ma'ruf Amin administration. A broader study by Apriliyanti²³ of fifteen major SOEs demonstrates the continuity and complexity of political patronage in appointments to SOE boards in post-authoritarian Indonesia. These findings are important because they show that patronage is not merely an individual procedural violation but a structural risk arising when strategically valuable corporate positions intersect with political interests. Joceline and Soepriyanto²⁴ likewise show the relevance of political connections in SOE governance, particularly in decisions concerning the appointment of external auditors.

From a legal-policy perspective, the appropriate solution is not to eliminate the state's role altogether, because doing so would contradict the ownership character of SOEs. What is required is a transformation of state involvement from personal discretion to rule-bound discretion. The state may continue to determine strategic direction and appoint corporate organs, but those choices must be made within verifiable parameters. For directors and commissioners, these parameters may include sector-specific competency requirements, integrity track records, leadership experience, conflict-of-interest screening, matrix-based fit-and-proper assessments, and publication of substantive reasons for selecting a candidate. Such mechanisms do not eliminate discretion; they render it accountable.

This study also distinguishes independence from politics from independence from accountability. SOE directors should be protected from pressure to adopt decisions that merely serve short-term political interests. Such protection, however, must not become immunity from oversight. Professional independence in fact requires clear accountability standards. In the context of business decisions, the

²²M. H. Zulkarnain and S. Izzati, "Politik pembagian kekuasaan jabatan BUMN dalam pemerintahan Joko Widodo-Ma'ruf Amin," *Parapolitika: Journal of Politics and Democracy Studies* 3, no. 1 (2022): 83-95, <https://doi.org/10.33822/jpds.v3i1.6065>.

²³I. D. Apriliyanti, "Continuity and complexity: A study of patronage politics in state-owned enterprises in post-authoritarian Indonesia," *Critical Asian Studies* 55, no. 4 (2023): 516-537, <https://doi.org/10.1080/14672715.2023.2257223>.

²⁴A. Joceline and G. Soepriyanto, "External auditor appointment in Indonesian state-owned enterprises: The role of political connection and accounting irregularities," *Journal of Applied Finance and Accounting* 10, no. 1 (2023), <https://doi.org/10.21512/jafa.v10i1.8904>.

business judgment rule offers a relevant paradigm: directors should be protected when they act in good faith, with due care, without conflicts of interest, and on the basis of adequate information. Disemadi et al.²⁵ emphasize legal protection for SOE directors' business decisions when these principles are satisfied, while Coloay²⁶ stresses the need for a supervisory paradigm that remains sensitive to the business character of SOEs.

Under this construction, depoliticizing SOEs does not mean severing the relationship between the state and the enterprise. Depoliticization means limiting forms of influence that cannot be objectively reviewed. This principle is particularly important for human resource reform because a patronage culture at the highest levels can easily diffuse throughout lower organizational levels. If strategic promotions are perceived to depend more on personal proximity than competency, performance appraisal systems lose credibility, internal talent loses incentives to perform, and meritocracy fails to become an organizational value.

In the legal-policy construction proposed here, the boundary of intervention is not determined solely by the identity of the actor, but by the quality of the procedure and the reasons supporting the decision. Shareholder involvement is legitimate when it occurs within lawful authority and satisfies standards of competency, integrity, transparency, and conflict-of-interest management. Conversely, a decision becomes problematic when no verifiable criteria are available or when the required procedure is disregarded. The concept of rule-bound discretion is therefore central: discretion is not abolished, but constrained and made subject to ex post review.

Oversight, the Business Judgment Rule, and the Limits of SOE Managerial Accountability

Human resource reform will not be effective without an oversight design capable of distinguishing managerial error, reasonable business risk, governance violations, and abuse of authority. In SOE practice, unclear boundaries can generate two extremes. The first is under-enforcement, where personnel or business decisions burdened by conflicts of interest escape scrutiny by invoking corporate autonomy. The second is over-enforcement, where reasonable business decisions are treated as violations merely because they produce losses. Both extremes undermine professionalism: the first encourages impunity, while the second fosters a culture of fear in decision-making.

Kasim²⁷ has argued that SOE oversight should apply the business judgment rule paradigm when assessing business decisions rather than relying solely on a governmental public-finance approach. This argument remains relevant. Coloay²⁸

²⁵H. S. Disemadi, M. A. Yusro, and A. I. Shaleh, "Perlindungan hukum keputusan bisnis direksi BUMN melalui business judgement rule doctrine," *Jurnal Jurisprudence* 10, no. 1 (2020), <https://doi.org/10.23917/jurisprudence.v10i1.11006>.

²⁶J. Coloay, "Pengawasan keuangan negara pada BUMN melalui penerapan prinsip business judgment rule," *Jurnal Hukum Positum* 7, no. 2 (2023): 190-204, <https://doi.org/10.35706/positum.v7i2.7044>.

²⁷H. Kasim, "Memikirkan kembali pengawasan Badan Usaha Milik Negara berdasarkan business judgement rules," *Jurnal Konstitusi* 14, no. 2 (2017), <https://doi.org/10.31078/jk14210>.

²⁸J. Coloay, "Pengawasan keuangan negara pada BUMN melalui penerapan prinsip business judgment rule," *Jurnal Hukum Positum* 7, no. 2 (2023): 190-204, <https://doi.org/10.35706/positum.v7i2.7044>.

identifies continuing tensions in the legal construction of state-finance oversight and SOE management, while Disemadi et al.²⁹ emphasize the importance of legal protection for directors' decisions made in accordance with sound business principles. From the perspective of this study, the business judgment rule is not only a doctrine of directors' liability but also a principle of institutional design: oversight should evaluate process, information, conflicts of interest, due care, and the rationality of the decision rather than merely the economic consequences that arise afterward.

This principle may be applied by analogy to strategic human resource decisions. A promotion, for example, should not be considered improper merely because the appointee subsequently fails to meet all performance targets. The relevant inquiry is whether the selection process used clear criteria, candidates were compared objectively, conflicts of interest were controlled, performance data were considered, and the reasons for the decision were documented. Human resource audits should therefore move beyond formal compliance and assess the quality of the process. This approach makes oversight both fairer and more effective in detecting misconduct.

Nelaz and Junita's³⁰ empirical findings on the importance of internal-audit competency and audit quality for the implementation of good corporate governance support the need to extend supervisory attention to human capital. Internal audit functions have often concentrated on finance, compliance, and operational risk. Strategic human resource decisions, however, can generate governance risks comparable to those created by financial decisions. SOE oversight systems should therefore include periodic audits of recruitment, succession, remuneration, conflicts of interest, the effectiveness of talent pools, and consistency in performance appraisal.

This study further proposes a layered oversight model. The first layer is self-control through codes of ethics, conflict-of-interest declarations, and decision documentation. The second is internal assurance through boards of commissioners, nomination/remuneration committees, internal audit, and compliance functions. The third is shareholder accountability through evaluation mechanisms based on objective indicators. The fourth is public accountability for matters implicating state interests, including transparency of strategic policies and audits conducted within the authority of state institutions. This layered model preserves balance: the enterprise retains room to act, but every exercise of discretion leaves an accountability trail.

The use of the business judgment rule in this study is analogical at the level of supervisory rationality; it does not amount to an automatic extension of the doctrine to all human resource decisions. What is adopted is the principle that the quality of a decision should be assessed by reference to the process, information, due care, conflicts of interest, and rationality existing at the time the decision was made. This

²⁹H. S. Disemadi, M. A. Yusro, and A. I. Shaleh, "Perlindungan hukum keputusan bisnis direksi BUMN melalui business judgement rule doctrine," *Jurnal Jurisprudence* 10, no. 1 (2020), <https://doi.org/10.23917/jurisprudence.v10i1.11006>.

³⁰Y. S. Nelaz and D. Junita, "Good corporate governance pada BUMN di Sumatera Barat," *CURRENT: Jurnal Kajian Akuntansi dan Bisnis Terkini* 5, no. 3 (2024): 462-476, <https://doi.org/10.31258/current.5.3.462-476>.

approach provides two protections simultaneously: protection for managers who act professionally and in good faith, and an instrument for distinguishing legitimate business discretion from abuse of authority or unaccountable personnel decisions.

Reform Model: Five Pillars of Accountability-Based Corporate Merit

Based on the foregoing analysis, this study reconstructs accountability-based corporate merit as a five-pillar legal-policy model. These pillars are not intended to standardize all HR systems across SOEs, but to establish minimum standards governing the exercise of authority in human resource management. Law therefore functions as an accountability boundary, while enterprises retain room to choose technical instruments suited to their business characteristics.

Table 2. Five Pillars of Accountability-Based Corporate Merit

Pillar	Problem Addressed	Normative Standard	Implementation Instrument
1. Regulatory coherence	Normative fragmentation and overlapping authority	Vertical, horizontal, and functional consistency	National minimum standards; synchronization of internal policies
2. Professional independence	Patronage and personalization of decisions	Rule-bound discretion; conflict-of-interest control	Talent pools; competency matrices; documented nomination processes
3. Competency- and performance-based objectivity	Subjective promotion or appraisal	Competency, performance, integrity, non-discrimination	Ex ante KPIs; assessment; records of performance and potential
4. Decision traceability	Absence of reviewable grounds for decisions	Reason-giving obligation and audit trail	Documented reasons; digital talent and succession systems
5. Proportional accountability	Under-enforcement and over-enforcement	Process- and risk-based oversight	Self-control; internal assurance; shareholder accountability; public accountability

The first pillar, regulatory coherence, ensures that internal SOE policies operate under common principles even when technical instruments differ. The second pillar, professional independence, shifts the source of decision-making legitimacy from personal proximity to competency and procedure. The third pillar, competency- and performance-based objectivity, ensures that the entire career cycle is governed by predetermined standards. The fourth pillar, decision traceability, transforms transparency into the ability to reconstruct who decided what, on the basis of which data, and for what reasons. The fifth pillar, proportional accountability, ensures that oversight not only prevents misconduct but also protects professional decisions made in good faith and on the basis of adequate information.

The conceptual contribution of this model is to reposition the merit principle from the paradigm of public administration to that of state-corporate governance. Merit is not transplanted as an ASN employment regime; instead, it is translated into a standard of objectivity and accountability within corporate employment relationships. In this way, SOE duality is no longer viewed merely as a source of conflict between public and private law, but as a foundation for a distinctive governance regime that combines business flexibility with public responsibility.

At the level of *ius constituendum*, the government should establish national minimum standards incorporating these five pillars through the harmonization of implementing regulations and SOE human resource governance policies. Such national standards should be principle-based rather than seek to standardize the operational procedures of every SOE. This approach is more compatible with sectoral diversity and allows managerial innovation while simultaneously subjecting all strategic discretion to requirements of competency, integrity, documented reasons, and reviewable oversight.

The business judgment rule does not immunize personnel decisions merely because they are labeled business decisions. It supports deference to informed, good-faith, conflict-free corporate judgment within lawful authority, while leaving room for review where the process is tainted by conflict of interest, bad faith, abuse of authority, gross negligence, discrimination, or violation of mandatory labor rules. Conversely, public-accountability concepts should not be used to convert every SOE personnel decision into ASN administration.

The five-pillar corporate merit model is therefore a normative governance proposal. Components that already exist in statutes, ministerial regulations, company governance rules, or internal policies should be implemented through those instruments; additional standardization may require shareholder policy, ministerial regulation, or SOE internal regulation depending on the subject matter. The study is doctrinal and does not measure actual compliance across SOEs, so empirical validation across sectors and ownership structures remains necessary.

CONCLUSION

The legal policy of SOE human resource management after the reforms to the SOE Law demonstrates that governance of employees in state-owned corporations should not be situated wholly within either the paradigm of government bureaucracy or private employment relations. The hybrid character of SOEs requires a model that recognizes the state's authority as owner while constraining its exercise through professional standards and accountability mechanisms. The 2025 regulatory reforms indicate a direction toward professionalization and separation of functions; human resource reform should therefore follow the same orientation through normative harmonization and stronger limits on personalized discretion.

The merit principle in SOEs should consequently be constructed as corporate merit rather than as a direct adoption of the ASN merit system. The novelty of this study lies in the accountability-based corporate merit model consisting of five pillars: regulatory coherence, professional independence, competency- and performance-based objectivity, decision traceability, and proportional accountability. These five pillars transform merit from a managerial slogan into a normative standard for reviewing the exercise of authority in recruitment,

promotion, succession, remuneration, evaluation, and appointments to strategic SOE positions.

As a direction for legal reform, the government should establish principle-based national minimum standards for SOE human resource governance while preserving differentiation according to business characteristics. At the corporate level, these standards should be implemented through talent pools, competency matrices, ex ante performance indicators, conflict-of-interest controls, obligations to document reasons for decisions, and digital audit trails. Future research should empirically test this five-pillar model across several SOE clusters to assess its compatibility with appointment practices, managerial independence, corporate performance, and stakeholder trust.

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