



Parent Corporation Liability For Losses of State-Owned Enterprise Subsidiaries: A Substantive Control and Public Accountability Approach

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Abstract

The relationship between state-owned enterprises (SOEs) and their subsidiaries gives rise to an accountability dilemma when losses occur at the operational level of subsidiaries, as corporate law formally treats parent companies and subsidiaries as separate legal entities, while governance practices within SOE holding structures demonstrate substantive parental control through policy directives, business strategies, and the allocation of public capital. This misalignment between formal legal construction and the reality of substantive control creates an accountability gap in the management of state assets. This study aims to reconstruct the legal basis of parent SOE liability by positioning the intensity of substantive control as the principal variable of accountability. The research employs a normative legal method with doctrinal and comparative approaches, drawing on statutory analysis and conceptual examination of corporate law. The findings indicate that liability limitations based solely on the principle of separate legal personality are no longer adequate when subsidiaries carry out strategic projects shaped by state policy and public financing, as the parent SOE substantively contributes to the formation of risk and loss consequences. By adapting the doctrines of piercing the corporate veil and enterprise liability to the context of public entities, this study proposes a hybrid accountability model that links legal responsibility to actual patterns of control, thereby strengthening public accountability and preventing accountability gaps within state-owned corporate group structures.

Keywords:

Hybrid Governance;
Parent Liability; Public
Accountability; SOE;
Substantive Control.

A. INTRODUCTION

The establishment of State-Owned Enterprise (SOE) Holding Companies represents a significant step in the transformation of national economic governance. A holding structure functions as a coordinating entity

that consolidates various business units under a single parent company with the aim of enhancing efficiency, strengthening business integration, and generating synergy across strategic sectors. Through this arrangement, a management pattern that once relied

on the direct control of the state has shifted into a corporate network that, at least formally, operates with greater autonomy. In practice, however, this structural change introduces its own set of challenges, particularly when losses incurred at the subsidiary level cannot be separated from the strategic influence exercised by the parent company. Under such circumstances, losses that initially appear as internal business risks may extend into the broader realm of state legitimacy in managing public assets. This development renders traditional boundaries of liability rooted in formal legal separation between entities increasingly difficult to sustain, especially when subsidiary investment and expansion decisions are fundamentally shaped by the parent company's policies operating within a wider public mandate.

Research in Indonesia has also begun to highlight the parent–subsidiary relationship within SOE structures. The study by Putri and Afwa shows that SOE holding arrangements create ambiguity in defining the scope of liability because, in practice, subsidiaries function as instrumentalities of the parent company, even though they are legally positioned as separate legal entities. However, their

study focuses primarily on the liability of directors and does not develop a framework for assessing parent company responsibility when subsidiary losses occur within the context of public mandates and state-driven policy interventions.¹

The study by Michael Barzuza and Eric Talley, entitled *Long-Term Bias* and published in the *Columbia Business Law Review*, examined the structural tendency of corporate boards and executives to prioritize long-term strategies even at the expense of short-term performance. The study found that such tendencies often allow parent companies to shift business risks to their subsidiaries without establishing adequate accountability mechanisms, thereby revealing the limitations of traditional corporate responsibility doctrines within corporate group structures.²

The study by Fajar Reyhan Apriansyah (2020), entitled *Analysis of the State Financial Losses to Subsidiaries of State-Owned Enterprises in Terms of Business Judgment Rules* and published in the *International Journal of Multicultural and Multireligious Understanding*, examined how state financial losses suffered by subsidiaries of State-Owned

¹ Sindy Riani Putri Nurhasanah and Ulil Afwa, 'Pertanggungjawaban Hukum Direksi Induk Terhadap Risiko Bisnis Anak Perusahaan Pada Holding Company BUMN', *Indonesia Law Reform Journal* 1, No. 3 (November 2021): 303-317, <https://doi.org/10.22219/ilrej.v1i3.18335>, p. 304.

² Michal Barzuza and Eric Talley, 'Long-Term Bias', *Columbia Business Law Review* 2020, No. 1 (2020): 104-191, p. 104.

Enterprises (SOEs) are treated under the *Business Judgment Rule* (BJR). The study found that directors are protected from personal liability for corporate losses if decisions are made in good faith, based on adequate information, and free from conflicts of interest. It also concluded that a clear distinction must be made between legitimate business risks which are protected under the BJR and acts of maladministration or corruption, which may trigger state liability under public finance and anti-corruption laws.³ Overall, these three studies provide valuable insights into corporate governance, accountability mechanisms, and legal liability frameworks. However, none of them adequately address the specific scenario in which parent SOEs operate under public mandates and strategic policy directives. This research aims to fill this gap by developing a hybrid liability model based on substantive control and public accountability principles.

The studies discussed above indicate that the fundamental issue concerning how the boundaries of parent SOE liability should be determined still leaves significant analytical gaps. Although these works contribute to the broader discourse on corporate governance, none of them directly address the challenges

that arise when SOE holding structures operate under public mandates and state-driven policy interventions.

First, the main problem lies in the mismatch between the formal doctrine of separate legal entity and the substantive control exercised by the parent company, as SOE subsidiaries in practice perform functions that heavily depend on the parent's directives despite their formal status as independent entities. Second, there exists a structural tendency within corporate groups that allows parent companies to shift business risks to their subsidiaries without adequate accountability mechanisms, thereby increasing the potential for a liability vacuum when losses occur in projects involving public funds.

Third, protective mechanisms such as the Business Judgment Rule do delineate the limits of directors' liability, yet they do not provide an answer as to how parent company responsibility should be formulated when subsidiary losses arise from strategic state assignments or top-down policy directives.

Against this background, this research aims to develop a coherent legal framework for determining parent SOE liability in situations where subsidiary losses arise from public mandates and hierarchical policy directives. By

³ Fajar Reyhan Apriansyah, 'Analysis Of The State Financial Losses To Subsidiaries Of State-Owned Enterprises In Terms Of Business Judgment Rules', *Eduvest-Journal of Universal Studies* 4, No. 8 (August 2024): 7369-7378, <https://doi.org/10.59188/eduvest.v4i8.1725>, p. 7369.

moving beyond the formal doctrine of separate legal personality, the study places substantive control and functional interdependence at the center of liability attribution within SOE holding structures. Through this approach, the article seeks to clarify how responsibility should be assessed when parent entities exercise decisive influence over subsidiary decision-making while operating within a public governance mandate, thereby contributing to the development of a hybrid accountability model capable of addressing liability gaps in state-owned corporate groups.

B. RESEARCH METHODS

This study employs a normative juridical research specification with a descriptive-analytical character, aiming to formulate a doctrinally sound and context-sensitive framework for parent company liability within SOE holding structures. The type of research is doctrinal legal research, relying on secondary data derived from primary, secondary, and tertiary legal materials. The research approach combines a statute approach examining Indonesian legal instruments governing SOEs and corporate arrangements, including Law No. 19 of 2003 on SOEs, Law No. 40 of 2007 on Limited Liability Companies, and Government Regulation No. 72 of 2016, with a conceptual approach that revisits theories of corporate liability to assess the scope of parent company responsibility for subsidiary losses in

state-directed corporate configurations. Data collection is conducted through library research encompassing legislation, scholarly literature, and authoritative legal references. The data analysis method applies a qualitative normative-interpretive technique, integrating statutory interpretation and doctrinal reasoning to evaluate the coherence and adequacy of existing liability doctrines, thereby providing a substantive analytical basis for reconstructing parent company liability in SOE holding structures within Indonesia's legal context.

C. RESULTS AND DISCUSSIONS

1. The Formal Model of Liability in SOE Holding Structures

The principle of separate legal entity and limited liability in corporate law was born out of the necessity to limit investor risk and facilitate business expansion through distinct legal entities. This concept positions each company as an independent legal subject, responsible for its own obligations and actions, without implicating shareholders or parent entities in the legal burdens of the subsidiary. Within this framework, the law provides institutional stability while simultaneously constructing legal boundaries that allow business risks to be managed in a fragmented and compartmentalized manner. However, this design carries theoretical weaknesses when applied to corporate group structures characterized by centralized

control. It is at this point that debates arise regarding the validity of the limited liability principle under conditions where strategic and operational control is concentrated in a single dominant entity. This is because formal legal relationships do not always reflect the actual distribution of power within the corporate structure.⁴

The holding structure particularly within state-owned enterprise groups

functions not merely as an economic unit, but also as an administrative network that often relies on a logic of command rather than genuine inter-corporate autonomy. When control is exercised centrally, the mechanical application of limited liability can undermine structural responsibility and create legal loopholes for evading public accountability, especially when the holding serves as an instrument of the state.⁵

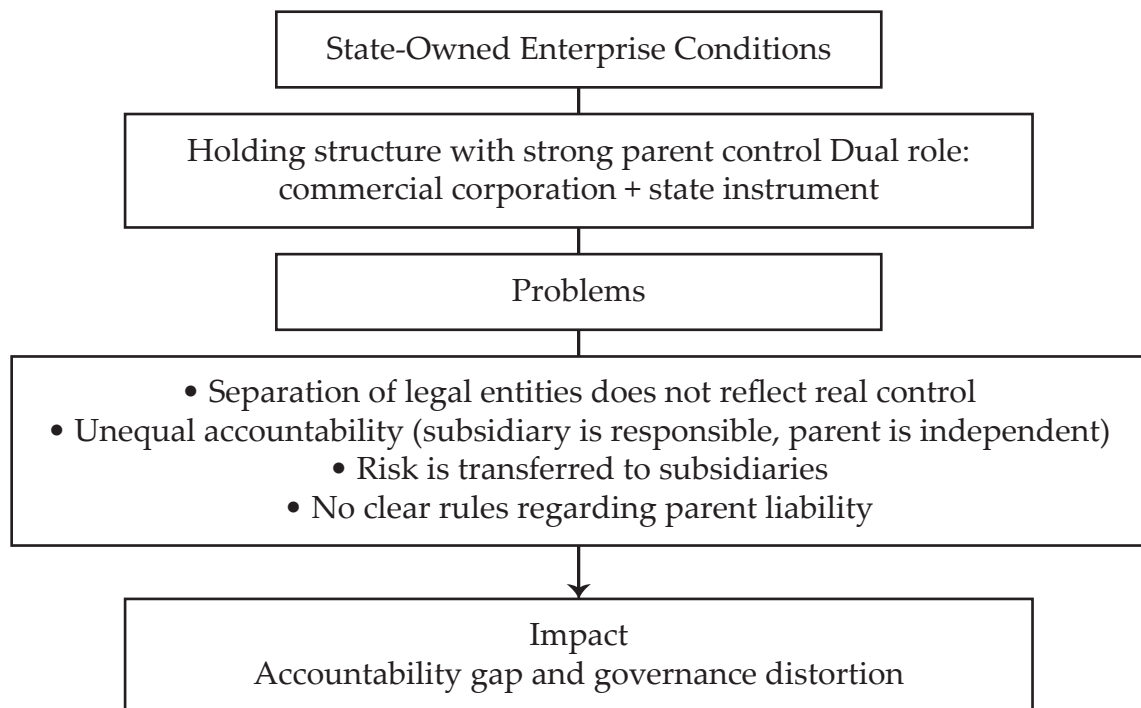


Figure 1.
Structural Conditions and Core Accountability Problems
in SOE Holding Models

⁴ Alan Dignam and Deniz Canruh, 'Into Reverse: Redesigning Veil Piercing', *Legal Studies* 45, No. 2 (June 2025): 212-230, <https://doi.org/10.1017/lst.2025.3>, p. 215.

⁵ I. Musonda *et al.*, 'Understanding Clients' Role in Community Stakeholder Participation and Influence on Infrastructure Sustainability-a Stakeholder Theory Lens', *International Journal of Construction Management* 25, No. 4 (March 2025): 419-427, <https://doi.org/10.1080/15623599.2024.2331862>, p. 423.

The conception of limited liability and the separation of legal entities in Indonesian corporate law is explicitly adopted through the Limited Liability Company Law, which affirms that a company possesses a legal status separate from its shareholders, including the state, which often holds a majority stake in SOEs (Persero). When the state establishes a holding structure through cross-SOE capital participation mechanisms, as regulated in Government Regulation Number 72 of 2016, inter-entity relationships are formally constructed as inter-corporate relations rather than as components of a unified administrative body. However, in practice, policy direction remains predominantly concentrated in the parent entity, which functions not only as a shareholder but also as a strategic controller and coordinating agent over its subsidiaries.

This dual position creates an anomaly between the legal structure of separation and the centralized decision-making mechanism, whereby the lines of accountability become misaligned with the actual distribution of authority. In such a context, the principle of liability separation tends to shield the dominant

entity from the consequences of policy failures that are executed collectively. Similar conditions have begun to draw criticism in global corporate law literature, particularly when the state acts dually as both owner and regulator an arrangement that risks undermining transparency and diluting institutional accountability.⁶ When state-owned enterprises are fragmented through a holding scheme without an adequate cross-accountability design, the legal structure employed may instead create a grey area in public accountability.⁷

To situate this discussion within the research problems established in the introduction, it is essential to note that the issues described above directly correspond to the core questions this study seeks to address. The structural mismatch between formal legal separation and substantive control, the potential for risk-shifting within SOE groups, the limitations of existing doctrines such as the Business Judgment Rule, and the dual role of SOEs as both commercial entities and instruments of state policy collectively form the unresolved legal problems identified earlier.

⁶ Aref M. Eissa, Tamer Elgendy, and Ahmed Diab, 'Earnings Management, Institutional Ownership and Investment Efficiency: Evidence from a Developing Country', *Journal of Financial Reporting and Accounting* 23, No. 3 (May 2025): 1206-1226, <https://doi.org/10.1108/JFRA-10-2022-0392>, p. 1206.

⁷ Giuseppe Grossi, Ulf Papenfuß, and Marie-Soleil Tremblay, 'Corporate Governance and Accountability of State-Owned Enterprises: Relevance for Science and Society and Interdisciplinary Research Perspectives', *International Journal of Public Sector Management* 28, No. 4/5 (May 2015): 274-285, <https://doi.org/10.1108/IJPSM-09-2015-0166>, p. 275.

A legal structure based on the separation of formal entities does provide administrative clarity; however, in the context of SOE holdings, it reveals a core research problem identified in this study, namely the mismatch between formal legal separation and the substantive control exercised by parent companies. The relationships formed within SOE holding structures are not merely corporate but also reflect the political economic functions of the state, particularly when SOEs operate in strategic sectors such as energy, insurance, and food security. Under these conditions, subsidiary failures often arise from top-down decisions made by the parent entity, yet such decisions are never legally constructed as part of the parent's institutional responsibility. This demonstrates how formal doctrines fail to capture actual power relations an issue central to the research problems previously outlined.

The illustrative cases of PT Asabri and PT Jiwasraya further demonstrate the second research problem, namely the structural tendency of SOE groups to shift risks downward to subsidiaries while shielding the parent entity from legal exposure. Despite the parent company's

role in directing investment strategies, liability was imposed exclusively on subsidiary directors, leaving the locus of strategic control outside the reach of legal accountability. This separation of control and consequence exemplifies the legal disembedding described in corporate law literature and underscores the inadequacy of the existing liability framework.⁸

Beyond creating an imbalanced allocation of legal burdens, this condition also illustrates the third research problem concerning the inadequacy of existing liability doctrines—such as the Business Judgment Rule—in addressing parent-level responsibility.⁹ While subsidiary management bears the full weight of liability, dominant actors who shape strategic decisions remain legally insulated. This reveals a doctrinal gap between the allocation of authority and responsibility, reinforcing the need to revisit liability principles within SOE holding structures.

This situation reflects the fourth research problem identified in this study, namely the inherent tension created by the dual role of SOEs as both commercial corporations and instruments of public policy. The principle of limited liability

⁸ John Gerard Ruggie, "Corporate Globalization and the Liberal Order: Disembedding and Reembedding Governing Norms," *The Downfall of the American Order: Liberalism's End?*, Ed. Peter J. Katzenstein and Jonathan D. Kirshner, (Ithaca: Cornell University Press, 2021), p. 19.

⁹ Mohammad Q. Alshhadat and Krayyem Al-Hajaya, 'Corporate Governance in the COVID-19 Pandemic: Current Practices and Potential Improvement', *Corporate Governance: The International Journal of Business in Society* 23, No. 7 (November 2023): 1607-1622, <https://doi.org/10.1108/CG-05-2022-0203>, p. 1608.

traditionally regarded as a cornerstone of corporate protection—proves inadequate to address the complexities of hierarchical control and state-directed mandates within SOE groups. The holding model, which merges commercial objectives with public service functions, often masks structural power imbalances beneath a formal legal façade. In this context, it becomes necessary to reconceptualize the parent company not merely as a passive shareholder, but as a functional coordination node whose decisions shape subsidiary outcomes. When institutional risks are not distributed proportionally to the locus of authority, accountability asymmetry becomes an inevitable structural consequence, reinforcing the research problem regarding the absence of a coherent liability framework for parent SOEs.

The structural tension underlying the fourth research problem is further illustrated by the dual legal identity of SOEs, which simultaneously inherit the characteristics of private corporations through the principles of separate legal entity and limited liability while performing public functions mandated by the state. In the corporate framework, the state is positioned merely as a shareholder subject to market logic and is not automatically liable for corporate losses. Yet, at the same time,

SOEs are entrusted with implementing development policies, providing public services, and managing strategic sectors. This dual identity complicates the delineation of responsibility within holding structures and reinforces the need to reassess liability mechanisms when strategic control is exercised by the parent entity under public mandates.

When these dual roles are embedded within a single institutional structure, the tension becomes difficult to avoid, thereby intensifying the research problem concerning ambiguity in accountability. The state is expected to act as a rational market participant, yet it cannot detach itself from political and social responsibilities when SOEs incur losses that affect the public. This structural contradiction described in governance literature as institutional hybridity creates conditions in which market efficiency and social legitimacy operate simultaneously but not harmoniously. As a result, the space for role conflict widens and the clarity of legal responsibility diminishes, highlighting the need to establish liability principles that reflect the hybrid nature of SOEs within holding structures.¹⁰

This paragraph addresses the overarching research problem concerning the legal vacuum surrounding parent company liability in SOE holding

¹⁰ Anne-Claire Pache and Patricia H. Thornton, 'Hybridity and Institutional Logics', in *Research in the Sociology of Organizations*, ed. Marya L. Besharov and Bjoern C. Mitzinneck (Emerald Publishing Limited, 2020), 29-52, <https://doi.org/10.1108/S0733-558X20200000069002>, p. 31.

structures. The Indonesian legal framework still lacks clear mechanisms for limiting, allocating, or restructuring parent liability when subsidiaries incur losses, despite the growing complexity of cross-capital participation among state-owned enterprises. While both the SOE Law and the Company Law emphasize the creation of separate legal entities, they do not provide doctrinal guidance on how liability should be attributed when the parent entity exercises substantive control over subsidiary policies. This disconnect between legal formalism and operational reality underscores the absence of cross-entity accountability mechanisms, thereby reinforcing the core research problem regarding the inadequacy of the current liability framework.

The asymmetrical allocation of responsibility described above illustrates another dimension of the second and third research problems: the tendency for liability to be imposed solely on subsidiary management despite the parent entity's decisive role in shaping strategic decisions. This pattern facilitates institutional evasion of responsibility and produces imbalances that are legal, ethical, and administrative in nature. Comparative legal developments increasingly recognize the need to assess liability based on functional

control rather than formal ownership particularly in entities financed by public funds.¹¹ These trends demonstrate that the Indonesian framework remains out of alignment with evolving principles of accountability, thereby affirming the research problem concerning the inadequacy of current liability doctrines in SOE holding structures.

This condition further illustrates the fourth research problem concerning the incompatibility between private-law doctrines and the public mandate inherent in SOE operations. When the state establishes a holding structure without a regulatory framework that clearly delineates vertical and horizontal accountability, the logic of private law becomes insufficient to address issues that are fundamentally public in nature. The absence of such mechanisms allows power to be exercised without corresponding responsibility, exacerbating the legal and institutional gaps identified earlier.

The persistent tension between private control structures and public-interest obligations within SOE holdings reveals the necessity of exploring alternative institutional approaches, thereby directly engaging with the research objective of this study. Concepts such as hybrid governance acknowledge that SOEs cannot be adequately regulated under the

¹¹ Mariano Torcal and Josep M. Comellas, 'Affective Polarisation in Times of Political Instability and Conflict. Spain from a Comparative Perspective', *South European Society and Politics* 27, No. 1 (January 2022): 1-26, <https://doi.org/10.1080/13608746.2022.2044236>, p. 11.

dichotomy of private corporations versus state institutions. Instead, their position within a mixed governance framework necessitates liability arrangements that match the distributed nature of authority and responsibility. This aligns with the research problem concerning the need for a liability model capable of preventing accountability gaps arising from structural fragmentation.¹²

The tension between private control and public interest within the SOE structure creates space for alternative institutional approaches that are more flexible and adaptive. One such approach is the concept of *hybrid governance*, which recognizes that entities like SOEs cannot be treated solely as pure corporations or as state institutions. Instead, they must be understood as forms of mixed governance, subject both to the principles of efficiency and to the demands of public accountability.

Within this logic, the parent–subsidiary relationship must be understood not merely as an ownership arrangement but as an architecture of distributed authority and responsibility. This perspective aligns with the concept of institutional responsibility, which

emphasizes the need for collective liability frameworks to prevent evasion of accountability through legal fragmentation a central issue raised in the research problems.¹³ When regulatory authority is exercised without corresponding liability, the legal system fails to uphold its role in preserving public trust. Consequently, refining the regulation of SOE holding structures becomes essential to ensure that the concentration of power within parent entities does not sever channels of public accountability.¹⁴

This analysis demonstrates that the formal liability model based on separate legal personality and limited liability remains normatively coherent but functionally inadequate when applied to SOE holding structures operating under centralized control and public mandates. The main finding of this section is that the disjunction between formal legal separation and substantive control creates a systematic accountability gap, particularly when risks are generated through top-down policy decisions. Normatively, this finding indicates the need for liability standards that allow responsibility to be attributed based

¹² Béland Daniel *et al.*, *The Oxford Handbook of the Welfare State* (Oxford: Oxford University Press, 2021), p. 1041.

¹³ Evelyze Cruz Dallagnol, Henrique Portulhak, and Blênio Cezar Severo Peixe, 'How Is Public Value Associated with Accountability? A Systematic Literature Review', *Public Money & Management* 43, No. 3 (April 2023): 251-258, <https://doi.org/10.1080/09540962.2022.2129531>, p. 251.

¹⁴ Chris Ansell and Alison Gash, 'Collaborative Platforms as a Governance Strategy', *Journal of Public Administration Research and Theory* 28, No. 1 (January 2018): 16-32, <https://doi.org/10.1093/jopart/mux030>, p. 17.

on actual control and decision-making authority, rather than solely on formal corporate boundaries.

2. The Direction of Reconstructing Legal Liability of SOE Parent Companies

The holding structure within State-Owned Enterprises (SOEs) often creates a legal grey area regarding liability, particularly in cases involving violations or public losses linked to subsidiary companies. On one hand, the doctrine of corporate autonomy formally justifies that each legal entity is responsible for its own actions. However, in practice, the boundary between the strategic interests of the parent company and the operational activities of the subsidiary is never entirely separate—especially when business decisions are influenced through majority ownership, coordination mechanisms, or the placement of commissioners acting on behalf of the state.

This raises both ethical and legal questions: to what extent can the state absolve itself of responsibility when environmental damage, consumer losses, or labor rights violations occur under the umbrella of an SOE entity? A holding model implemented without specific regulation governing legal responsibility relations risks weakening

the principle of state accountability in the public domain. This concern is echoed in scholarly literature that highlights the shifting of responsibility within public corporate structures, warning that without a clear normative framework, the consolidation of corporate power may come at the expense of public oversight and justice. This raises both ethical and legal questions: to what extent can the state absolve itself of responsibility when environmental damage, consumer losses, or labor rights violations occur under the umbrella of an SOE entity? A holding model implemented without specific regulation governing legal responsibility relations risks weakening the principle of state accountability in the public domain. This concern is echoed in scholarly literature that highlights the shifting of responsibility within public corporate structures, warning that without a clear normative framework, the consolidation of corporate power may come at the expense of public oversight and justice.¹⁵

Dismantling the boundaries of legal liability within SOE holding structures cannot be accomplished solely through a formalistic approach centered on the autonomy of legal entities. The functional relationship between parent and subsidiary companies often implies a form of substantive control—unrecorded in legal documents, yet

¹⁵ David Ciepley, 'Can Corporations Be Held to the Public Interest, or Even to the Law?', *Journal of Business Ethics* 154, No. 4 (February 2019): 1003-1018, <https://doi.org/10.1007/s10551-018-3894-2>, p. 1003.

evident in the actual practices of strategic decision-making and risk allocation. In this context, the concept of *piercing the corporate veil* becomes highly relevant, especially when the separation of entities is used as a shield to evade social or environmental responsibility. This is particularly critical in cases involving public ownership, where moral and constitutional dimensions impose a distinct layer of accountability beyond that of conventional corporate structures.

When a subsidiary of an SOE pollutes the environment or unilaterally terminates employment, while its business direction is controlled by the parent company, the claim of liability separation loses its ethical and sociological foundation. This is where the concepts of *enterprise liability* and *functional control* offer a more equitable approach—treating the corporation as a unified entity of responsibility when legal structures are used to divide risk without dividing control. Such an approach is increasingly urgent in the context of public corporations, as the separation of legal entities must not be permitted to obscure the state’s role as guardian of the public interest.¹⁶

Several jurisdictions have developed more assertive approaches to framing

legal responsibility for state-owned subsidiaries—approaches that do not stop at the formal boundaries of share ownership. In Germany, the principle of *Durchgriffshaftung* allows courts to disregard the separateness of legal entities when such separation is used to harm third parties or evade obligations, particularly within holding structures directly controlled by the state. This doctrine reflects an acknowledgment that formal corporate boundaries must yield when they serve as instruments of injustice or legal evasion in publicly governed enterprises.

Meanwhile, the Dutch legal framework emphasizes the concept of *group interest* in corporate governance practices, which can be used to assess the extent to which parent company responsibility—including that of the state—attaches to the actions of its business units, particularly when a subsidiary operates in the domain of public service. In France, although the legal separation of entities is strictly upheld, the doctrine of *responsabilité de l’État* may be invoked to evaluate the state’s involvement in strategic decision-making conducted through corporate entities. These three approaches collectively demonstrate that formal separation models are insufficient

¹⁶ Larry Catá Backer, “‘Un Somaro Piumato’ (‘A Befeathered Ass’)-Rethinking the Scope and Nature of State Liability for Acts of Their Commercial Instrumentalities: State-Owned Enterprises and State Owner Liability in the Post-Global’, in *Regulation of State-Controlled Enterprises*, ed. Julien Chaisse, Jędrzej Górski, and Dini Sejko, International Law and the Global South (Singapore: Springer Nature Singapore, 2022), 369-398, https://doi.org/10.1007/978-981-19-1368-6_15, p. 370.

where the state, as corporate owner, exercises substantial power yet evades the consequences of actions that result in public harm.¹⁷

Redesigning the legal framework of parent company liability within SOEs requires a shift from a normative approach centered on share ownership to a conceptual framework that emphasizes substantive control and the degree of intervention in the subsidiary's strategic policy. Under the current legal regime, the relationship between parent and subsidiary SOEs is often obscured by formal juridical boundaries. In practice, however, direct interventions—through state capital injections, the appointment of directors, and the determination of national strategic project directions—reveal a power relationship that is far from neutral. This implies that the state actor functions not merely as a passive shareholder, but as an active policy driver shaping the operationalization of the business entity.

In this context, the liability of a parent company can no longer be assessed solely through a legalistic measure of ownership, but must instead be examined through an accountability framework that considers dimensions of control and goal orientation. When a state owned subsidiary operates within

the framework of government programs such as the development of the new capital city (IKN), smelter construction, or the management of production forest areas every social and ecological impact resulting from such actions cannot be detached from the responsibility of the state itself. This situation calls for a reinterpretation of the *piercing the corporate veil* principle not merely to disregard the legal personality of the subsidiary, but to more equitably identify who holds decision-making power in the name of the public.

Furthermore, the application of the *enterprise liability* concept can serve as a more contextually grounded operational framework to strengthen state accountability. Under this principle, legal entities within a state-owned corporate group may be positioned as a network of shared responsibility—especially when there is a flow of policies, capital, and mutual influence among them. Accordingly, in cases where a subsidiary commits violations against community rights or causes environmental damage, the state cannot automatically shield itself behind the separate legal status of the SOE. In litigation practice, this framework allows the court to trace the control structure and target principal actors—including technical ministries or

¹⁷ Franco Amatori and Andrea Colli, 'European Corporations: Ownership, Governance, Strategies and Structures. A Review of Five Countries: United Kingdom, Germany, France, Italy and Spain', in *The European Enterprise*, ed. Harm G. Schröter (Berlin, Heidelberg: Springer Berlin Heidelberg, 2008), https://doi.org/10.1007/978-3-540-74038-4_2, p. 95.

majority-shareholding agencies—as part of a broader collective responsibility.

This model is not intended to place the state solely in a defensive position, but rather to restore its constitutional function as the protector of the public interest. Clarifying the structure of responsibility would also promote more transparent governance of SOEs, as each business decision would be assessed not only through financial performance, but also in terms of its consistency with the principles of the rule of law and ecological justice. In other words, future legal design must provide instruments that enable the tracing of the state's substantive involvement in every business policy with far-reaching impacts—whether through sectoral regulation, cross-institutional oversight mechanisms, or legal avenues that allow the public to hold the state accountable in its role as a business actor.

Given the complexity of the relationship between the state and state-owned business entities, normative reform cannot rely solely on revising legal texts. It must also involve a reconfiguration of institutional design that enables accountability to operate beyond the formal boundaries of ownership. This underscores the importance of an approach that is not

only legal-formal, but also contextual and relational—ensuring that regulation does not devolve into a dry repetition of procedural norms. Legal mechanisms must be crafted to more clearly interpret institutional realities, including how market logic and state logic intertwine in the operations of SOEs. A regulatory model that integrates the principles of institutional accountability and structural transparency may offer a middle path balancing corporate flexibility with public responsibility.¹⁸

The discussion further finds that reconstructing parent SOE liability requires a shift from ownership-based liability toward a control-based accountability framework. By integrating the concepts of piercing the corporate veil and enterprise liability within a public governance context, this study proposes a hybrid liability model that aligns responsibility with substantive influence. From a normative perspective, this model provides guidance for legal reform and judicial reasoning by enabling courts and policymakers to assess liability based on policy intervention, capital control, and functional integration within SOE groups.

¹⁸ Chung-a Park, 'Enhancing the Transparency and Accountability of State-Owned Enterprises', in *Reforming State-Owned Enterprises in Asia*, ed. Farhad Taghizadeh-Hesary *et al.*, ADB Institute Series on Development Economics (Singapore: Springer Singapore, 2021): 21-39, https://doi.org/10.1007/978-981-15-8574-6_2, p. 21.

D. CONCLUSIONS

This study concludes that conventional doctrines of separate legal entity and limited liability are insufficient to address the realities of hierarchical control and state-directed intervention within SOE holding structures. The findings demonstrate that parent-level liability in SOEs is not determined by formal ownership alone, but by the degree of substantive control through which parent entities shape strategic, financial, and managerial decisions that generate public or ecological risks. The central contribution of this research lies in articulating a hybrid liability framework that reconceptualizes parent SOEs as functional coordinators rather than passive shareholders, integrating private-law doctrines such as *piercing the corporate veil* and *enterprise liability* with principles of public accountability. Normatively, this framework provides a clearer basis for legal reform and judicial reasoning by enabling responsibility to be attributed according to actual patterns of control and policy intervention, thereby reducing accountability gaps in the governance of state-owned corporate groups. The conclusion underscores that parent–subsidiary relations in SOE holdings must be assessed through substantive control and functional involvement, rather than formal corporate separation, in order to ensure the coherent allocation of public risk and responsibility.

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