

BALANCE BETWEEN PUBLIC AND PRIVATE ASPECTS IN ECONOMIC LAW: AN ANALYSIS OF THE ROLE OF STATE REGULATION AND RELATIONS BETWEEN BUSINESS ACTORS IN INDONESIA

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Abstract

This study aims to analyse the balance between public and private aspects in economic law in Indonesia, with a focus on the role of state regulation and the dynamics of relationships between business actors. National economic law requires integration between the public interest represented by the state as regulator and the interests of individuals or business entities regulated through private contracts. Through a literature review approach, this study examines various laws and regulations, court decisions, and related scientific literature. The results of the study indicate that state regulation plays an important role in creating a healthy business climate, preventing monopolistic practices, and protecting the rights of consumers and small businesses. On the other hand, relationships between business actors are regulated within the framework of national economic law, which emphasises the principle of freedom of contract while still considering public interests. Synergy between state regulations, business actor compliance, and oversight by relevant institutions is key to creating a fair, inclusive, and sustainable business ecosystem in Indonesia.

Keywords: economic law, public aspects, private aspects, state regulation, business actors, business competition, consumer protection, Indonesia

Introduction

Economic law in Indonesia is a dynamic discipline that plays a central role in supporting national development. In this context, economic law does not merely regulate economic and business transactions, but must also accommodate the interests of the wider community and ensure the achievement of social justice. The vision of national economic law is to create a just and prosperous society by prioritising proportional justice, the absence of discrimination against economic actors, and healthy competition among business actors (Rachmat et al., 2025).

The Indonesian economic law paradigm emphasises the integration of the values of Pancasila and the 1945 Constitution as the basis for regulating economic life. Within

this framework, there are several important principles, such as recognition of the divine, protection of the homeland and nation, equitable and civilised prosperity, social welfare, freedom of humanity and justice, and the principle of democracy in deliberation and consensus. All these principles form the foundation for designing national economic laws () (Mamutov et al., 2016) .

Economic law essentially consists of two main aspects: public and private. The public aspect emphasises the role of the state as a regulator tasked with supervising, controlling, and ensuring the creation of order, justice, and protection of the public interest. Meanwhile, the private aspect pertains to legal relationships between individuals or business entities, which are often formalised in the form of agreements or business contracts. These two aspects are inseparable and interact with one another in a continuous manner to support the effectiveness of national economic law (Damjanovic & Xiao, 2024) .

The integration of public and private aspects is very important to ensure that economic activities not only benefit individual business actors, but also provide maximum benefits for the welfare of the people. In the public sphere, the state has the authority to establish regulations through laws, implementing regulations, and macroeconomic policies such as taxation systems, investment policies, and consumer protection. On the private side, businesses have the freedom to establish contractual legal relationships as long as they do not violate the rights and interests of others and remain within the framework of applicable laws and regulations (Cohen et al., 2020) .

The balance between private and public interests plays a fundamental role in maintaining the inclusiveness and sustainability of the economic system. One concrete manifestation of this balance can be seen in the regulation of capital investment, consumer protection, and the formulation of competition regulations. For example, Law No. 5 of 1999 on the Prohibition of Monopoly Practices and Unhealthy Business Competition requires businesses to conduct their operations based on the principles of economic democracy, respect consumer rights, and maintain a balance between business interests and the public interest (Qwader, 2025) .

In practice, business actors are not only required to be profit-oriented, but also obliged to consider social impacts, business ethics, and the protection of community rights. The state, through its legal framework, is required to create a conducive business environment while upholding the rule of law and ensuring legal certainty for all parties involved. This is crucial to prevent the abuse of dominant positions, monopolies, or unfair competition practices that could harm the broader public. (Fabre, 2021) .

Empirical experience shows that the separation between private and public interests in economic law is often impossible to achieve absolutely. When conflicts or imbalances arise between the two, the role of state regulation becomes vital in restoring harmony and achieving justice in economic activities. This is where the primary objective of economic law—to achieve peace, justice, and welfare—becomes highly

relevant, as these three elements are fundamental human needs in leading a life within a society (Anser et al., 2020).

Privatisation policy, as an example of strategic economic policy, also demonstrates the importance of this balance. The privatisation process of state-owned enterprises (SOEs) is essentially the government's effort to improve the efficiency of state-owned companies while reducing the government's budget burden. However, this policy also raises debates regarding its social impacts and its influence on the control of public assets and public welfare. Therefore, the government must act cautiously to ensure that public interests are safeguarded even though market mechanisms are more dominant (Fabre, 2021).

On the other hand, advances in science and technology have led to the emergence of new forms of business, such as leasing, which require legal protection not only from an administrative and taxation perspective, but also from a civil law perspective. In this context, imbalances often arise among the parties involved due to weak legal regulations and differences in legal systems between the country of origin of the business form and the host country. A robust economic legal framework is essential to provide fair legal protection and certainty for all business actors (Verbruggen, 2020).

Indonesia, as a country that adheres to the concept of balance between social interests and individual rights, faces unique challenges in structuring economic law. The constitution and national philosophy place the interests of groups and society above those of individuals. This has implications for how every economic regulation must always consider the protection of social rights without neglecting individual rights and freedom of enterprise (World Bank Group, 2014).

The modernisation of economic law in Indonesia also necessitates synchronisation between private and public law. Commercial law and company law, which previously tended to focus on private aspects, must now transform to respond to global economic developments, technological advances and increased public participation in the economy. The integration of these two aspects ensures protection for the weak and guarantees fair distribution of the results of development (Martimort & Pouyet, 2020).

Thus, a study of the balance between public and private aspects in Indonesian economic law is urgently needed and relevant to address the dynamics and challenges currently facing the nation. This study aims to analyse in depth the role of state regulation, the mechanisms of relations between business actors, and efforts to create balance in order to realise a fair, proportional, and sustainable economic legal system.

Research Method

The research method used in this study is a normative legal research method with a library research approach, which involves examining and analysing primary legal

materials such as legislation, court decisions, and secondary legal materials in the form of books, journals, and relevant scientific articles (Eliyah & Aslan, 2025) . Data was collected through literature review and analysed using a descriptive-qualitative approach with a deductive reasoning framework, thereby providing a systematic overview of the balance between public and private aspects in economic law, the role of state regulation, and the relationships among business actors in Indonesia (Tranfield et al., 2003) .

Results and Discussion

Balance Between Public and Private Aspects in Economic Law in Indonesia

Economic law in Indonesia is a highly dynamic field of law that regulates various economic activities involving both public and private interests simultaneously. The balance between these two aspects is key to creating a fair, inclusive, and sustainable economic system (Arimoro, 2020) .

Essentially, Indonesian economic law is rooted in the values of Pancasila and the 1945 Constitution. Principles such as social justice, economic democracy, and protection of the public interest form the main foundation for the design of national economic regulations. The public aspect of economic law emphasises the role of the state as a regulator. The state is responsible for overseeing, controlling, and ensuring order and protection of the interests of the broader community. This is reflected in various regulations governing economic management, such as the Investment Law, the Competition Law, and the Consumer Protection Law (Valaguzza & Parisi, 2020) .

Meanwhile, the private aspect focuses on legal relationships between individuals or business entities. These relationships are usually formalised in the form of agreements or business contracts, in which the parties have the freedom to regulate their rights and obligations as long as they do not conflict with applicable laws and regulations. The balance between the public and private aspects is crucial to ensure that economic activities not only benefit individual businesses but also maximise benefits for the welfare of the people. The state plays a role in creating a conducive business environment while upholding the rule of law and ensuring legal certainty for all parties. (Government of Jordan, 2020) .

In practice, business actors are not only required to be profit-oriented, but also obliged to consider social impacts, business ethics, and the protection of community rights. State regulations are in place to prevent the abuse of dominant positions, monopolies, or unfair competition practices that could harm the wider community. Economic law in Indonesia is interdisciplinary, combining elements of public and private law. For example, in consumer protection, there is an interconnection between civil law (private), criminal law, and administrative law (public). This demonstrates that economic law cannot be strictly separated between the public and private spheres (DiMatteo et al., 2020) .

One concrete example of the implementation of this balance is the regulation of investment and consumer protection. The state provides tax incentives for micro, small, and medium-sized enterprises, while still regulating consumer protection to prevent exploitation or losses on the part of the public. The relationship between business actors and consumers is clearly regulated in the Consumer Protection Law (Anugrah, 2022). Business operators are required to provide clear and accurate information about the products or services they offer, while consumers are entitled to protection of their rights in economic transactions. This balance is also reflected in the principle of contractual freedom, which is balanced with protection of public interests. The state may intervene if there is a violation of public interests, such as in cases of monopolies or unfair competition (Hidayatullah, 2025).

The role of state regulation is vital in maintaining a balance between private and public interests. Good regulation can provide legal certainty, reduce risk, protect the rights of individuals and companies, and encourage investment and innovation. However, the implementation of economic law in Indonesia still faces various challenges, such as inconsistencies between central and regional regulations, limited capacity of law enforcement officials, and a lack of public awareness of regulations among the community and business actors (Muchlinski, 2021).

The modernisation of economic law requires synchronisation between private and public law. Commercial law and company law, which previously tended to focus on private aspects, must now transform to respond to global economic developments, technological advances, and increased public participation in the economy. The balance between public and private aspects also plays a role in promoting equitable distribution of economic development outcomes. Social economic law emphasizes the importance of fair and equitable distribution of development outcomes among all segments of society, in accordance with human dignity and human rights (Hidayatullah, 2025).

In the context of globalisation, Indonesian economic law must be able to adapt to international developments without neglecting national interests. A holistic and systematic approach is needed so that economic law can become a facilitator of business and a protector of public interests.

Finally, the balance between public and private aspects in Indonesian economic law is the main foundation for creating a fair, inclusive, and sustainable economic system. The role of the state as a regulator and facilitator, as well as the active participation of business actors and the community, are key to the success of achieving national economic development goals.

The Role of State Regulation in Shaping Relationships Among Business Actors

State regulations play a central role in shaping and directing relationships between business actors in Indonesia. Through various legal instruments and policies, the state seeks to create a healthy, fair, and competitive business climate. These

regulations not only govern business practices but also balance the interests of business actors, consumers, and the wider community (Prasetyo, 2020).

One of the most fundamental forms of regulation is Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition. This law aims to prevent the concentration of economic power in the hands of certain individuals or groups that could harm other business actors and consumers. Thus, the state acts as a regulator to ensure that business competition proceeds in a healthy and fair manner. (Ivanov, 2022).

State regulations also prohibit various harmful business practices, such as cartels, oligopolies, monopolies, bid rigging, and predatory pricing. Through supervision and law enforcement, the state ensures that no business actor abuses its dominant position to hinder competition or harm other business actors. Additionally, the government has established special agencies such as the Competition Supervisory Commission (KPPU) to oversee the implementation of competition regulations. The KPPU has the authority to investigate, decide, and impose sanctions on businesses found to have violated regulations, such as collusion, price fixing, or abuse of dominant position (Semyakin et al., 2022).

State regulations also play a role in fostering and supervising business actors through guidance, socialisation, and education on the importance of fair business competition. The government actively provides guidance so that business actors understand and comply with applicable laws and regulations, as well as encourages innovation and efficiency in business. In the context of consumer protection, state regulations govern the rights and obligations of business actors and consumers. The state ensures that business actors are not solely profit-oriented but also consider ethical business practices, product safety, and consumer rights protection. This is regulated under Law No. 8 of 1999 on Consumer Protection (Harjono, 2023).

State regulations also govern dispute resolution mechanisms between business actors, both through litigation and non-litigation channels. The state provides fair and transparent dispute resolution forums so that business actors can resolve conflicts effectively without harming other parties. In the digital age, state regulations are evolving to govern relationships between business entities in electronic commerce (e-commerce). The government has issued Government Regulation No. 80 of 2019 on Electronic Commerce, which regulates procedures, rights, and obligations of business entities in digital transactions, as well as consumer protection in the online realm (Kusumastuti & Khoiron, 2019).

State regulations also play a role in encouraging collaboration and partnerships between business actors, particularly between large enterprises and micro, small, and medium enterprises (MSMEs). Through affirmative policies, the state provides incentives and protection for MSMEs so that they can compete healthily and gain wider market access. State supervision and law enforcement are important instruments for

ensuring business actors' compliance with applicable regulations. The government conducts preventive and repressive oversight, ranging from guidance, inspections, to the imposition of administrative or criminal sanctions on businesses that violate regulations (Claussen et al., 2020).

State regulations also govern the quality, safety, and suitability of traded products. Through institutions such as BPOM and SNI, the state ensures that products on the market meet established standards, thereby protecting businesses from unfair competition and consumers from dangerous products. In shaping relationships between businesses, state regulations also encourage transparency and openness of information. The government requires businesses to provide accurate, clear, and honest information about the products or services they offer, thereby preventing fraud or market manipulation. (Pradeka, 2025).

State regulations also govern business licensing, business procedures, and other administrative requirements. With an integrated and transparent licensing system, the state creates legal certainty and ease of doing business for business actors, while preventing corruption and illegal levies (Lee, 2020).

Overall, the role of government regulations in shaping relationships among business actors is highly strategic. The government not only acts as a regulator but also as a facilitator, mediator, and enforcer of the law. With clear, firm, and adaptive regulations that keep pace with the times, the government can create a healthy, competitive, and sustainable business ecosystem in Indonesia.

Finally, the success of state regulations in shaping relationships between business actors depends heavily on consistent law enforcement, synergy between institutions, and active participation from business actors and the community. Thus, the main objective of creating healthy, fair, and highly competitive business competition can be optimally achieved.

Relationships Among Business Actors Are Regulated and Implemented Within the Framework of National Economic Law

Relationships between business actors in Indonesia are an integral part of the national economic legal system, which aims to create a healthy, fair, and competitive business climate. The regulation of these relationships involves not only private aspects, such as business agreements, but also public aspects that emphasise the protection of public interests and the prevention of business practices that are detrimental to the wider community (Chandrawulan & SH, 2022).

Basically, relationships between business actors are regulated through various laws and regulations, such as the Civil Code (KUHP), Law Number 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition, and Law Number 20 of 2008 concerning Micro, Small, and Medium Enterprises (MSMEs). These

regulations provide a legal basis for business actors to conduct business activities legally and responsibly (Akbar et al., 2024) .

One of the main forms of relationships between business actors is a business agreement, whether in the form of a written or verbal contract. This agreement binds the parties and regulates their respective rights and obligations, as stipulated in Articles 1320 and 1338 of the Civil Code. The principle of contractual freedom is upheld, but it must still consider fairness, legal certainty, and compliance with applicable laws and regulations (Ridwan HR, 2022) . In practice, relationships between business entities can take the form of partnerships, subcontracting, franchising, distribution, agency, and joint ventures. Each of these forms of relationship is specifically regulated in sectoral regulations, such as the SME Law and related government regulations. Partnerships, for example, must be based on the principles of mutual need, trust, strengthening, and mutual benefit, and must be documented in a written agreement (Bungenberg et al., 2020) .

Supervision of relations between business actors is carried out by institutions such as the Business Competition Supervisory Commission (KPPU). The KPPU has the authority to assess and supervise agreements or business practices that have the potential to cause monopolies or unfair business competition. If violations are found, the KPPU can impose administrative sanctions or bring the case to court. In addition to oversight, the government also provides legal protection for businesses, particularly small and medium-sized enterprises (SMEs), to prevent them from being harmed by larger businesses. This protection is implemented through affirmative policies, such as exempting SMEs from certain provisions of the Competition Law, as well as providing training, capacity building, and access to capital through the SME Development Agency () (Sadono Sukirno, 2023) .

Relationships between business actors are also characterised by competitive dynamics. Healthy competition encourages innovation, efficiency, and improvements in the quality of products or services. However, if competition is unhealthy, such as in the form of cartels, collusion, or abuse of dominant positions, then the state must intervene to maintain market balance and protect other business actors and consumers (Mardiasmo, 2023) . In the context of partnerships, agreements between large businesses and SMEs must adhere to principles of fairness and must not create harmful dependencies for either party. The government, through Government Regulation No. 17 of 2013, states that unilateral termination of partnerships is prohibited, and any disputes must be resolved through consultation or through agreed dispute resolution mechanisms (Rachmat et al., 2025) .

Dispute resolution between business actors can be carried out through various mechanisms, such as negotiation, mediation, arbitration, or small claims court. These mechanisms are typically outlined in partnership agreements or business contracts agreed upon by the parties involved. If the dispute pertains to business competition,

the KPPU is the authorised institution to handle and resolve the case. (Mamutov et al., 2016).

Relationships between business actors are also regulated in the context of electronic commerce (e-commerce). In digital transactions, business actors are required to provide accurate and clear information, as well as guarantee transaction security. The ITE Law and its implementing regulations govern the rights and obligations of business actors in the digital ecosystem, including data protection and electronic dispute resolution (Damjanovic & Xiao, 2024). In addition to private law aspects, relationships between business actors are also influenced by macroeconomic policies, such as fiscal policy, investment, and international trade. The state acts as a facilitator and regulator to create a conducive business climate, encourage collaboration, and open up broader market access for national business actors (Cohen et al., 2020).

Within the framework of national economic law, relationships between business actors must be conducted in good faith, with transparency and accountability. Every business actor is obliged to comply with quality standards and business ethics, and refrain from practices that harm other parties. Violations of these principles are subject to legal sanctions, including civil, administrative and criminal penalties (Qwader, 2025).

The government is also encouraging businesses to build inclusive and sustainable business networks. Collaboration between large enterprises and MSMEs, for example, is expected to improve national competitiveness and equitable distribution of economic development. The government provides various incentives and licensing facilities to support the creation of a healthy business ecosystem. Business relationships in Indonesia are not without challenges, such as imbalances in bargaining power, differences in capital capacity, and unfair competition practices (Anser et al., 2020). Therefore, strengthening regulations, enforcing the law, and educating businesses are key to creating fair and sustainable business relationships.

In the era of globalisation and digitalisation, relationships between business actors are becoming increasingly complex and cross-border. National economic law must be able to adapt to technological developments and international standards, without neglecting national interests and the protection of domestic business actors.

Ultimately, business relationships regulated and implemented within the framework of national economic law are an important foundation for inclusive, equitable, and sustainable economic growth. Synergy between state regulations, business compliance, and oversight by relevant institutions is the key determinant of a healthy business ecosystem in Indonesia.

Conclusion

The balance between public and private aspects in Indonesian economic law is an important foundation for creating a fair, inclusive, and sustainable economic system. National economic law not only regulates private relationships between business actors

through contracts and agreements, but also emphasises the protection of public interests through state regulations. Thus, economic law in Indonesia is dual in nature, regulating and enforcing at the same time, so that the interests of individuals and society can run harmoniously in economic activities.

The role of state regulation is vital in shaping relationships between business actors. The state acts as a regulator to ensure fair competition, prevent monopolistic practices, and protect the rights of consumers and small businesses. Through legal frameworks such as the Competition Law and Consumer Protection Law, the state creates a conducive, transparent, and equitable business environment. Effective regulation also provides legal certainty, promotes innovation, and enhances national economic efficiency.

Relations between business actors are regulated within the framework of national economic law based on the principle of freedom of contract while taking into account the public interest. The state supervises and enforces the law to maintain market balance and prevent business practices that are detrimental to the public. Synergy between state regulations, business compliance, and supervision by relevant institutions is key to creating a healthy and competitive business ecosystem in Indonesia.

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